SENATE—*Tuesday, August 5, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

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

Let us pray.

For Thy blessings upon us in the days that are past, we give Thee thanks O Lord.

And for the promise of Thy guidance in the future, we give Thee thanks.

Attune our minds to Thy mind, our hearts to Thy heart, our wills to Thy will.

Grant to the President, to the Members of Congress, and to all others in the service of the Government, wisdom and strength higher than their own, that in matters great and small Thy will may be known and done. In all our work may we be guided by whatsoever is true and pure and lovely in that higher kingdom whose builder and maker is God.

And finally give to all Thy servants that peace which the world cannot give nor take away. 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., August 5, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

Mr. FORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

THE JOURNAL

Mr. FORD. 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.

LEGISLATIVE AGENDA BEGINNING AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, for the information of my colleagues, I am going to insert in the RECORD a list of major legislation remaining for consideration by the Senate prior to adjournment.

When the Senate returns from the August 6 recess, there are only 37 working days, including Saturdays, before the announced October 4 adjournment. That adjournment will be sine die if all the essential work for the Congress has been completed. However, if it is necessary to return after the November election, I have already announced that the Speaker and I have decided that the Congress will return on Wednesday, November 12. This was at a meeting at which the House leadership was present, the Senate leadership was invited to attend and, for reasons which were meritorious, some of them could not attend.

In any event, that is the date on which the Congress would return.

Obviously, there are a number of essential measures remaining for consideration in the limited time available. Expiring authorizations and appropriation measures will take priority.

Incidentally, the appropriations measures that have been passed by the House and received in the Senate as of the close of business yesterday were these: Energy-water; military construction; legislative; State, Justice; HUD; Agriculture; and Interior. Seven in number. So the Senate has not acted on any of the major appropriation bills.

Now, the list I will submit is not intended to represent the only legislation that will be called up. Any measure on the calendar will be eligible for consideration as time and the schedule permit. This would include such measures as the Criminal Code revision, aspects of regulatory reform, export trading, Antiterrorism and Immigration Act amendments.

The Senate has made excellent progress this year in the area of expiring authorizations—approximately 50 of these essential measures have already passed the Senate. I am confident that with the continued excellent cooperation and assistance by all Members of the Senate, this progress will continue when we return on August 18.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point, therefore, a list of legislation to be completed by adjournment, with the understanding, as I have indicated before, that it is not all inclusive and is not intended to represent the only legislation that may be called up.

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

LEGISLATION TO BE COMPLETED BY ADJOURNMENT

EXPIRING AUTHORIZATIONS

Marine Protection Research (Cal. 744).
Title VII, CETA (Cal. 761).
Hazardous Materials Transportation (Cal. 768).
Army Corps of Engineers/Law Enforcement (Cal. 793).
Securities and Exchange Commission (Cal. 802).
Department of Treasury/International Affairs (Cal. 816).
Water Resources Council (Cal. 824).
Military Construction—to be reported.
Department of Energy/Weapons Programs—to be reported.
Health Manpower—to be reported.
Revenue Sharing—after House acts.
Disaster Relief—if reported.

APPROPRIATIONS

Conference Report on Ex-Im Bank Supplemental.
Consideration of all of the thirteen regular appropriations measures for Fiscal Year 1981.

OTHER

Conference Reports.
Second Concurrent Budget Resolution.
Tax Measures.
Hazardous Waste Disposal and Cleanup (Superfund) (Cal. 933).
Youth Employment.
Domestic Violence (Cal. 734, 737).
Fair Housing.
Resolution of Disapproval on shipment of nuclear fuel to India.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, my inquiry is whether or not there are any special orders or any leadership time provided for this morning.

The ACTING PRESIDENT pro tempore. There are no special orders and no leadership time.

Mr. BAKER. I thank the Chair.

Under those circumstances, what will be the pending business at this point?

EXECUTIVE SESSION

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

The ACTING PRESIDENT pro tempore. Under the previous order, the 1 hour under the rule shall be equally divided and controlled between the Sena-

● This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

tor from New Jersey (Mr. WILLIAMS) and the Senator from Utah (Mr. HATCH).

The clerk will state the pending nomination.

The legislative clerk read as follows:

Nomination to the National Labor Relations Board of Don Alan Zimmerman of Maryland to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed in executive session.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I was interested to note in the Wall Street Journal this morning that they had a blurb on the front page which stated the following:

The Senate stalls on confirming Don Zimmerman to fill an NLRB vacancy. The Senate tried, but failed to cut off debate yesterday. Conservatives, such as Utah Republican Orrin Hatch, don't want to put a political independent in a traditional Republican seat. Zimmerman is the Senate Labor Committee's chief GOP counsel.

Although that is one of the considerations, there is precedent for having independents in these seats in the past, and that is a consideration here when we consider that the Board is already 3 to 1 in favor of labor.

The big consideration is the overbalancing toward one side on the National Labor Relations Board.

The National Labor Relations Board has been a strong entity in the resolution of the labor-management relations problem because, primarily, all Presidents up until now, basically, have recognized the importance of keeping the Board in a balanced condition.

This President, apparently, does not seem to think that is as important as prior leaders in this country.

I think I can state with particularity that the Republican Presidents have been very careful to maintain a careful balance between labor and management. In this case, we are going to have, if this President has his way, the Board turned 4 to 1 against the business sector in this country.

The Board recently has been enacting by Board fiat the labor law reform in bits and pieces. Keep in mind, the labor law reform bill was rejected by the U.S. Senate in 1978, yet these people have been ignoring that rejection and have been, by piecemeal, enacting labor law reform.

I find that particularly reprehensible.

They have been able to do that with a 3-to-2 balance on the Board. Now they want it 4 to 1, or at least that is what many people in the business community feel.

I think, whether that is true or not, in the case of Mr. Zimmerman, who happens to be a friend of mine, that just the appearance alone is enough to cause the unsettled condition among the business people in this country today.

So it is hardly a fact that he may not be Republican enough. That does not even enter into it, as far as I am concerned. It does with some of our colleagues.

I think it is important that there has been balance on the Board and that this has been a Republican seat. But I do not want to overemphasize that.

The important matter to be emphasized is that we are in danger of having labor-management chaos in this country because of the stacking of the National Labor Relations Board. This comes on the heels of this administration putting into the independent General Counsel's position a 100-percent prolabor individual who has worked for 21 years with the 100-percent prolabor chairman of the National Labor Relations Board, Mr. William Lubbers. That battle was fought just a few months ago. It was an unwinnable battle, but it had to be waged because these points have to be made.

If that occurs, the independent General Counsel position and four other members of the Board, assuming the business community is correct in this matter, then where does that leave the management side of the labor-management relations equation?

It would leave it where they could have all the important cases divided between panels of two of the four prolabor members of the Board and leave the incidental matters for a panel of two, with the one who occasionally votes for the business community.

That would be disastrous considering the bitterness throughout this country that the Lubbers nomination has caused, bitterness of the business community as a result of it, and they are really upset in this particular matter.

One of the problems of the early National Labor Relations Board was its role as investigator, prosecutor, and jury all wrapped up in one. With the revisions in the Taft Hartley Act, it was hoped the separateness of the Board as a judicial body and the General Counsel as the prosecutor would be absolute.

This separateness was necessary to maintain management and labor support of the agency by insuring the agency's integrity and its neutral position. With the naming of a man who has served for 20 years as the present pro-union Chairman Fanning's chief staffer as General Counsel, that separateness has been smashed and doubts of fair treatment or neutral handling of management charges of unfair labor practices has been put severely in doubt especially in the minds of employers.

Many in the management community see the entire NLRB as being too partisan and firmly tilted toward organized labor. This latest blow concerning the Lubbers appointment simply solidifies management's opinion of the Board. Further bad feelings are present due to the resignation of Betty Southard Murphy from the Board during the Lubbers controversy. The Carter White House held Ms. Murphy's reappointment up despite strong support to reappoint her from both management and labor. The price the White House demanded for reappointing former Board Chairwoman Murphy to a 5-year term was confirmation of Lubbers. When this did not happen quickly and Ms. Murphy's term was about to run out, she resigned rather than undergo further political gamesmanship.

Now her replacement is Don A. Zimmerman, an aid to Senator JACOB JAVITS, of New York. If he is nominated and confirmed, the Board will seemingly lose all semblance of even the appearance of balance.

Mr. Zimmerman's role as the staff person handling labor matters for Senator JAVITS causes many very real concerns over Mr. Zimmerman's position on issues which could come before the Board and which, like situs-picketing legislation and labor law reform, would, if adopted, be contrary to the best interests of labor relations in this country.

Mr. Zimmerman's confirmation would also alter the manner in which nominees to the Board traditionally are selected. Ever since the Board was made a five member Board, it has consisted of three persons who are members of the same political party as the President and two persons who are members of the party not in the White House.

Mr. Zimmerman is an independent, not registered as a member of either the Republican or Democratic Party being appointed to fill a Republican seat. In fact, in the past, he has been a registered Democrat. If this precedent goes unquestioned by the Senate, it is conceivable that a future President could appoint three persons from his own party and two independents philosophically attuned to the President, thus setting the stage for complete domination of the Board by a single philosophy. Such imbalance would, in turn, destroy the balance needed on the Board to retain the confidence of both management and labor. President Eisenhower did appoint an independent to the Board. In that case, the nominee was nominated to fill one of the three seats reserved for the President's party; the other two seats were reserved for nominees of the party not in power. In that case, therefore, there was a 2–2–1 split (preserving balance) rather than the 3–1–1 split represented by the nomination of Mr. Zimmerman.

The NLRB depends on voluntary settlements. Of the over 50,000 cases initiated each year, over 80 percent are settled. If either management or labor decides the NLRB is highly partisan either toward unions or management that rate will go down drastically. It is estimated it costs the agency an extra million dollars for each percentage point the settlement rate drops. The absolute impossibility of maintaining an effective agency in the face of a severe lack of confidence by unions or employers is certain. Highly controversial candidates such as William Lubbers and Don Zimmerman will eventually cause the destruction of the reputation of the NLRB and the extreme shortsightedness in pushing these candidates by the White House is yet another example of the quality of leadership it has displayed throughout the past 4 years.

Mr. President, on Monday of last week we heard many speeches and read constituent letters which indicate strong opposition to the confirmation of Don Zimmerman as Board member of the National Labor Relations Board. The opposition comes from both sides of this aisle—so it is not strictly a partisan issue.

In part, my concern is based on the fact that other more acceptable candidates to both labor and management have been considered but rejected for this sensitive post. More importantly, however, my uncertainty about the nomination is based on the thought that this appointment may not be in the best interests of the Board or the parties which must rely on the Board for the resolution of labor-management disputes. Finally, I believe that this appointment may well contravene the congressional policy of a balanced Labor Board and consequently would seriously erode public confidence in the NLRB.

My opposition and remarks should not be viewed as a personal attack on Mr. Zimmerman. I do not seek to impugn his integrity in any way. Rather, as I shall explain more fully, I believe that the appointment of a Board member with limited experience in the field of labor relations is contrary to the congressional and Presidential objective of assuring that the Labor Board reflect a balance between management and labor.

The importance of public confidence in the agency should not be underestimated. When the original Wagner Act was signed into law in 1935, President Roosevelt stated that its acceptance by management, labor, and the public with a sense of sober responsibility and of willing cooperation would serve as an important step toward achievement of justice and peaceful labor relations in industry. Contributing in large measure to that acceptance over the years has been the confidence of management, labor, and the public in the guarantee of the independent and unbiased determinations of unfair labor practices by the Labor Board. This confidence in the agency has been vividly demonstrated by the high percentage of settlements and voluntary compliance after unfair labor practice charges have been filed. NLRB statistics indicate that over 90 percent of all unfair labor practice cases are either settled, adjusted by agreement of the parties before issuance of administrative law judge's decisions, withdrawn prior to the issuance of a complaint, or are dismissed administratively. These statistics are proof of the widespread acceptance by both labor and management of the independent respect of the Board. As my fellow Senators will recall, this public acceptance did not always exist, primarily due to the pre-1947 structure of the agency.

As originally enacted, the National Labor Relations Act combined the functions of prosecutor, judge, and jury into one entity—the National Labor Relations Board. Criticism of this arrangement mounted as the Board appeared to many to operate in a biased and arbitrary manner. Ultimately, Congress responded to this criticism and amended the NLRB to establish an independent Office of General Counsel.

CRITICISM OF BOARD PROCEDURES UNDER THE WAGNER ACT

The Wagner Act of 1935, hailed as the "Magna Carta" of labor, had by the 1940's engendered considerable opposition. One of the major criticisms of the National Labor Relations Board stemmed from the mechanisms which empowered the Board to serve simultaneously as "prosecutor, jury, and judge" of unfair labor practice charges. As the court noted in *ILGWU* v. *NLRB* (501 F.2d 823, 828 (D.C. Cir. 1947)):

> Prior to 1947 the Board itself was charged with the duty of determining whether to issue unfair labor practice conmplaints and how they should be prosecuted, for there was no office of the General Counsel. Thus the Board simultaneously played the roles of prosecutor, jury, and judge.
>
> This statutory scheme remained unchanged until 1947, when the Taft-Hartley amendments created the Office of the General Counsel. This office was created in response to heavy criticism of the unfair and uneven results obtained from the amalgamation of prosecutorial and judicial functions in the old board.

The Smith committee, officially entitled the "Special House Committee to Investigate the National Labor Relations Board," issued a report which served as a basis for action which culminated in the Taft-Hartley Act. The Smith committee's report recommended the establishment of an independent administrator to perform the investigative and prosecutorial functions of the National Labor Relations Board.

In this regard, it is crucial that the Labor Board enjoy the confidence of not only the labor-management community, but more importantly the confidence and trust of the public as a whole. If public confidence in the agency is to be maintained it is vital that the NLRB be perceived by all as a completely objective independent and his own man. Because of his lack of experience in labor matters, it must be clear to the Senate, based on the presentations made in this Chamber that Mr. Zimmerman is not viewed by the business community as being independent and clearly does not enjoy the confidence of at least that important segment of the labor-management community.

Never before, in the agency's history, has there been a more compelling need to have a Board member who is perceived as objective and most important, independent. As the Labor Committee is aware, the agency's case load continues to grow at a rapid rate. In fiscal year 1979 there were 55,000 cases filed with the agency. Of these cases 41,700 constituted unfair labor practice charges. In the 2-year period from 1977 to 1979 the intake of unfair labor practice cases alone rose 10 percent. I suggest that this settlement rate could not have been achieved if either labor or management in any way lacked confidence in the office of the NLRB. If one cannot have confidence in the Board, then our appeals court will, indeed, become overburdened.

It is apparent to anyone having firsthand experience with the agency that a Board member must possess an understanding of the day-to-day problems facing labor and management. This understanding can be gained through experience in the private sector or through a substantial period of service in positions of major responsibility in the Office of the General Counsel. The background of Mr. Zimmerman simply does not provide the exposure necessary to effectively discharge the responsibilities imposed by statute on a Board member of the NLRB.

The lack of practical labor relations and administrative experience can impair the effective administration of the statute and adversely affect unions, employers, and individuals that must rely upon the agency for the protection and vindication of their statutory rights.

Mr. President, some of my colleagues have raised the issue that when this matter was reported by the committee, it was reported by a vote of 12 to 0. There are 15 members on our committee, and at least two of us would have voted against Mr. Zimmerman but decided not to do so at that particular time—did not vote for him but decided not to vote against him.

That committee happens to be a committee that is primarily—almost totally—prolabor, as contrasted to consideration of management's problems. We knew there was no real reason to put up a fuss in the committee about this, because it would just take the committee's time unnecessarily. The fact is that there was strong feeling at that time about this nomination.

Frankly, there is no bad feeling toward Mr. Zimmerman personally; nor do I mean to impugn or find any personal fault with Don Zimmerman, who, as I said, happens to be a friend.

However, I believe that the appearance of things sometimes can even supersede the reality of matters; and if the appearance and the reality are as the business community really believes them to be, then we are in for one heck of a miserable time in labor-management relations henceforth, and I do not believe we have to put ourselves in that position.

CONCLUSION

For the reasons stated, I oppose the confirmation of Donald Zimmerman as a member of the National Labor Relations Board. In my view, Mr. Zimmerman lacks the necessary independence and experience for this sensitive Government post. His confirmation would violate the clear congressional intent to maintain the delicate balance that we must have on the board.

I urge the Senate not to confirm Mr. Zimmerman. It would be in the public interest if the administration were to continue discussions with unions and management regarding an alternative and more acceptable nominee.

Mr. WILLIAMS. Mr. President, I ask

unanimous consent that my remarks this morning on the pending nomination not be considered as a second speech on this matter under the rules.

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

Mr. WILLIAMS. Mr. President, I see my distinguished colleague advancing the nomination of Don Zimmerman in the Chamber. I have a statement, but I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, why does the Senator not go ahead.

Mr. WILLIAMS. Mr. President, this morning, we will have the third, and I certainly hope the last, cloture vote on the nomination of Don A. Zimmerman to be a member of the National Labor Relations Board.

There are few issues that warrant discussion with regard to this nomination. Mr. Zimmerman is unquestionably highly qualified for this post. He is presently serving as labor counsel to the Committee on Labor and Human Resources, on the staff of our distinguished member, Senator JAVITS. He has served with distinction on the committee staff for 6 years.

His prior record is also distinguished, and it has been made a part of the record of the debate on this nomination. Suffice it to say that this nomination was unopposed at the hearing we held in June; and it was unopposed in committee. We voted 12 to 0 to report the nomination favorably.

In debate on this matter last week, a question was raised about correspondence in support of Mr. Zimmerman. As I stated then, this has not been a controversial matter, and there has been relatively little correspondence either for or against confirmation.

Because I was asked, however, I wish to include in the RECORD a number of letters in support of Mr. Zimmerman.

These letters in support of the Zimmerman nomination are as follows:

First. R. Heath Larry, former president of the National Association of Manufacturers, now in the private practice of law (July 29, 1980, addressed to Senator JAVITS).

Second. Richard F. Schubert, president of Bethlehem Steel Corp. (February 12, 1980, addressed to Director of the Presidential Personnel Office). Schubert was Undersecretary of Labor and, before that, Solicitor of Labor during the Nixon administration.

Third. William J. Kilberg, management labor lawyer in the firm of Gibson, Dunn & Crutcher, former Solicitor of Labor during the Ford administration (January 29, 1980 to Director of Presidential Personnel Office).

Fourth. David J. Fitzmaurice, president of the International Union of Electrical, Radio & Machine Workers Union (December 20, 1980, to chairman of the Committee on Labor and Human Resources).

Fifth. J. A. Downs, president of the National Association of Dredging Contractors (July 29, 1980, to chairman of Labor and Human Resources Committee).

Sixth. Clarence M. Mitchell, Jr., formerly legislative representative with the NAACP and formerly president of the Leadership Conference on Civil Rights (December 21, 1979, to Director of Presidential Personnel Office).

Seventh. Joyce C. Miller, president of the Coalition of Labor Union Women (June 9, 1980, addressed to Chairman WILLIAMS).

Mr. President, I ask unanimous consent to have printed in the RECORD all of these letters to which I have made reference.

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

REED SMITH SHAW & MCCLAY,
Washington, D.C., July 29, 1980.

Senator JACOB K. JAVITS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: Since I last wrote to you on January 21, 1980 I have been pleased to learn that the President nominated Donald Zimmerman to serve on the National Labor Relations Board and that the Senate Labor and Human Resource Committee unanimously reported the nomination.

As I expressed earlier to you, everything I know of Don Zimmerman indicates that he will be a fine addition to the National Labor Relations Board. I therefore wish to reaffirm my support for his nomination. If it will help, I would be delighted to make my views known to those of your colleagues who might be interested.

Sincerely,

R. HEATH LARRY.

BETHLEHEM STEEL CORP.,
Bethlehem, Pa., February 12, 1980.

Mr. ARNOLD J. MILLER,
Director of the Presidential Personnel Office, The White House, Washington, D.C.

DEAR MR. MILLER: It has come to my attention that Donald Zimmerman, currently serving as counsel to Senator Javits, is being considered for appointment to the National Labor Relations Board. I've had the pleasure of knowing Don for approximately seven or eight years, originally arising out of my tenure as Solicitor and then Under Secretary of Labor (1971–1975). I would characterize Don, based on my own personal experience, as fair, reasonable, bright and balanced in perspective and orientation. Hence, I am pleased to recommend him to your consideration.

I will be delighted to discuss this orally should you so desire. My telephone number is AC 215, 694–4168.

Very truly yours,

DICK SCHUBERT.

BREED, ABBOTT & MORGAN,
Washington, D.C., January 29, 1980.

Mr. ARNOLD MILLER,
Director, Presidential Personnel Office, Old Executive Office Building, Washington, D.C.

DEAR MR. MILLER: I am writing this letter to support the candidacy of Don Zimmerman for the vacant seat on the National Labor Relations Board.

I have known Don for some years, having worked closely with him while I served as Solicitor for the U.S. Department of Labor and he was Minority Counsel of what is now the Senate Committee on Labor and Human Resources. He has always impressed me as a man of honesty and integrity, with a considerable knowledge regarding federal labor statutes. It is my impression, having spent the last three years in the private practice of law representing management in labor matters, that the management community would find him an acceptable replacement for Betty Murphy.

I urge the President to give all due consideration to the appointment of Mr. Zimmerman to that most important position.

Sincerely,

WILLIAM J. KILBERG.

INTERNATIONAL UNION OF ELECTRICAL, RADIO, & MACHINE WORKERS,
Washington, D.C., December 20, 1979.

Hon. HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: I enjoyed talking with you at our meeting on December 12, 1979, concerning the nomination of Bill Lubbers for NLRB General Counsel.

With regard to Betty Murphy's replacement, I am sure that you share our high regard for Don Zimmerman. The IUE has worked closely with him on a number of pieces of legislation. We have been impressed, as I am sure you have been, with his commitment to encouraging collective bargaining, and to working closely with unions, his competence, his pragmatism and his conscientiousness. In our view, he would provide the NLRB with creativity, drive and a greater understanding of union viewpoints.

I hope that you will join in giving your valuable support to help assure that he is nominated by President Carter to fill the vacancy.

Sincerely yours,

DAVID J. FITZMAURICE,
President.

THE NATIONAL ASSOCIATION OF DREDGING CONTRACTORS,
Washington, D.C., July 29, 1980.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Human Resources, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Our Association wholeheartedly supports and endorses the nomination of Don A. Zimmerman, Minority Counsel (Labor) for the Committee, to the National Labor Relations Board. Mr. Zimmerman is an outstanding labor lawyer and is eminently qualified for this post.

Mr. Zimmerman will bring to the Board a calm and well-reasoned approach to Labor-Management issues. His balanced and experienced judgment will be helpful on important issues before the Board. The Dredging Industry strongly urges both Democrats and Republicans alike to support Mr. Zimmerman's confirmation in the Senate.

Sincerely yours,

J. A. DOWNS,
President.

MITCHELL, MITCHELL & MITCHELL,
Baltimore, Md., December 21, 1979.

Hon. ARNIE MILLER,
Director of Presidential Personnel, Room 145 Old Executive Office Building, Washington, D.C.

DEAR MR. MILLER: Word has reached me that Don Zimmerman, Chief Minority Counsel for the Senate Committee on Human Resources, has been recommended by Senator Jacob Javits for the Republican vacancy on the National Labor Relations Board. I heartily join in expressing my agreement with Senator Javits that Mr. Zimmerman would be an excellent addition to the National Labor Relations Board.

It has been my good fortune to work with

him from the beginning of his service on the committee. He is a careful and constructive public servant who has done much to aid the passage of legislation and the consideration of nominees whose names were sent to the committee.

I am sure you have his impressive record and, for that reason, I am not including it in this letter. His nomination would give the National Labor Relations Board an able and effective new member.

Sincerely yours,

CLARENCE M. MITCHELL, Jr.

COALITION OF
LABOR UNION WOMEN,
New York, N.Y., June 9, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: The Coalition of Labor Union Women (CLUW) is pleased that, as urged by CLUW, President Carter has nominated Don Zimmerman to fill the existing vacancy on the National Labor Relations Board.

CLUW has worked closely with Zimmerman on the passage of the Pregnancy Disability Act and other employment discrimination matters. We have been impressed, as I am sure you have been, with Zimmerman's commitment to eradicating discrimination in the workplace with respect to pregnancy as well as other areas, his marked sensitivity to the critical concerns of working women, and his overall competence. We have every reason to assume that the sensitivities that Zimmerman has demonstrated will carry over to his performance as a National Labor Relations Board Member.

We hope the Senate Labor and Human Resources Committee will quickly recommend his confirmation to the Senate.

Sincerely,

JOYCE D. MILLER,
President.

Mr. WILLIAMS. Mr. President, as my colleagues will readily appreciate, these letters of endorsement for Mr. Zimmerman cut across party lines. And they come from representatives of both industry and labor.

I submit that this serves to confirm the judgment of the Committee on Labor and Human Resources which voted in a bipartisan manner in support of this nominee.

It also emphasizes a point we discussed here last Friday before the first cloture vote—any discussion of party label in talking about members of the National Labor Relations Board can be misleading. The Board's history is filled with examples of splits between members of the same party and agreements in principle between members of different parties.

Some examples of this may be found on the Board today, as I pointed out last week.

Mr. President, on this issue of party label, a letter has come to my attention that I wish to point out to my Senate colleagues. This letter should serve to emphasize the highly partisan nature of the present attempt to block the confirmation of Mr. Zimmerman.

I am referring to a "Dear Colleague" letter that was circulated on July 28, 1980. In this "Dear Colleague" letter, the Senator from Utah, Senator HATCH, urges his Republican colleagues to "slow down, or completely stop, the consideration of fixed-term presidential nominees."

The letter also attempts to use two nominees coming from the Committee on Labor and Human Resources as evidence of a conspiracy on the part of Democratic Senators to speed the confirmation of all existing Presidential appointments.

There is, of course, no such conspiracy. But it is particularly clear in the case of both these nominees from the Labor and Human Resources Committee that their nominations have been proceeding in due course and not out of any desire to speed up confirmations.

In the case of Mr. Zimmerman, it has been well known that he was under active consideration for this Board position going all the way back to last January.

Of course the seat he has been nominated to fill has been vacant since Mrs. Betty Southard Murphy resigned last December. And Mr. Zimmerman might have been nominated much sooner except that the committee and the Senate were occupied for an excessively long time over the Lubbers' nomination.

Mr. Zimmerman was nominated, however, last June 4. At his confirmation hearing, not one witness appeared to testify against him.

Then, the committee reported the nomination of June 17, again without a single dissenting vote.

Finally, the nomination was brought to the Senate floor on July 28, nearly 6 weeks after it was reported by committee.

This is not a good example of hurrying a nomination. It is an example of one that has been on its way for over 6 months now.

The other example cited in support of the argument that confirmations should be slowed down or stopped is the nomination of Ethel Bent Walsh to the EEOC. This is an equally inappropriate case to cite. Mrs. Walsh's term expired on July 1. If she is not confirmed, she will be unable to serve beyond the end of this Congress.

The amazing thing, to me, about this point is that Mrs. Walsh is practically the quintessential Republican.

More importantly, she is practically the quintessential Republican woman—a qualification which I would have thought would make her nomination very attractive to Senator HATCH.

Mrs. Walsh is a member of the advisory council of the Republican Women's Federal Forum. She is a present member and past chairman of Executive Women in Government. And she is a present member and past vice president of the Washington Forum.

Her written statement to the Committee on Labor and Human Resources, made pursuant to her recent renomination to the EEOC, includes in its public portion, the following information about her political affiliations and activities.

I emphasize that this information is in the public record of the Committee on Labor and Human Resources, so I am revealing no secrets here. I do believe it is truly remarkable that Republican Senators should block the nomination of this distinguished public servant with this background of pure Republicanism. The record shows that Mrs. Walsh has been a regular and substantial contributor to the Republican National Finance Committee and to the National Republican Senatorial Committee and Republican Senate Campaign Fund.

In each case her contributions have been to Republicans.

Finally, I observe that her initial appointment to the EEOC in 1971 was by President Richard M. Nixon. Her reappointment in 1976 was, of course, by President Gerald Ford.

Now, she has been renominated for another appointment by President Carter. This nomination would seem to be not only meritorious, but highly nonpartisan. There is no requirement under the law that the President appoint a Republican to any position at the EEOC. Yet, he has chosen someone with about as pure a Republican record as it would be possible to find.

I submit that the campaign against Mr. Zimmerman, like the campaign against Mrs. Walsh, springs from a misguided partisanship that is unfortunate and unrelated to the merits of the nominations or the interests of the agencies to which they have been nominated.

I am confident that three-fifths of the Senate will reject this opposition to qualified nominees, and that we will confirm Mr. Zimmerman's nomination.

Mr. JAVITS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. JAVITS. Mr. President, we have now had very ample time to debate the Zimmerman nomination during which, as any Senator would, I welcome a complete exploration of his character, of his record, and of his ability to perform the responsibilities of being a member of the National Labor Relations Board.

I can only give my personal testimony for a fine lawyer who has been labor counsel to me and labor counsel to the minority on the Committee on Labor and Human Resources, and who has served with diligence, with the highest professional skill, and with great sobriety.

He has represented the points of view which I and other Members had, who may have entrusted him with seeking his views and advice and letting him be operating counsel for us in that committee, in that capacity he acted a way, I think, which is most admirable.

I do not know exactly what will be his philosophic attitude in the position to which he has been nominated. But I have had a lot of experience with staff people and, in my judgment, Don Zimmerman will be a very moderate member of the NLRB. Indeed, I believe he will be a very conservative member in terms of knowing the law and being extremely evenhanded as between management and labor, and truly being a judge and paying attention to both the decided cases, to innovations in the law, and to opposition briefs.

I believe if permitted to do so, and I would hope very much the Senate will permit him to do so, he will be an admirable servant for the United States. We

all know the word "bureaucrat" has been used so often and so pejoratively that it sounds like something in which somebody is wrong or there is some moral deficiency involved if you are a bureaucrat.

But we know, those who sit and work on committees, that some of the finest minds and finest characters we have ever been exposed to are in the Federal Government bureaucracy. People who are dedicated, highly professional, highly patriotic, highly motivated, and very much imbued with the American spirit, the American Constitution, and the American sense of life values and life responsibilities.

Such a man is Don Zimmerman.

Mr. President, the legislation in which he has been involved as labor counsel is so extensive as to give him a fantastically rounded experience in addition to his prior training, which has been recounted now many times here on the floor, as a lawyer and as a Government servant.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the legislative matters with which he has been involved in this professional capacity during the time he has spent on the staff of the committee and as my own labor counsel.

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

LEGISLATIVE ACTIVITIES

Legislation on which Don Zimmerman has had a major involvement, primarily as labor counsel to Senator Jacob K. Javits, includes the following:

1. Equal Employment Opportunity for Handicapped Individuals Act of 1979, reported by the Labor and Human Resources Committee, to bring individuals with physical and mental impairments within Title VII of the Civil Rights Act.

2. Pregnancy Discrimination amendments of 1978 to The Civil Rights Act of 1964, to prohibit employment discrimination against women on the basis of pregnancy and related conditions, reversing the case of *Gilbert* v. *General Electric*.

3. Flextime Amendments of 1978 for Federal employees, providing for the use of voluntary flexible and compressed work schedules.

4. Labor Law Reform legislation, 1977–78, which would have strengthened the remedies and expedited the procedures of the National Labor Relations Act.

5. Fair Labor Standards Act Amendments of 1977, raising the minimum wage, reducing the tip credit and strengthening enforcement authority.

6. Federal Mine Safety and Health Amendments Act of 1977 combining and strengthening occupational health and safety responsibilities in one statute and a single administration.

7. Black Lung Benefits Act of 1977, changing criteria for benefits and reforming the financing system.

8. Age Discrimination in Employment Act Amendments of 1977, raising the prohibition against age discrimination from age 65 to 70.

9. Common Situs Picketing legislation in both the 94th and 95th Congresses, to reform the law concerning secondary boycotts in the construction industry.

10. National Workers' Compensation Standards Act of 1979, which would establish minimum Federal standards for the State workers' compensation system.

11. Service Contract Act Amendments of 1976, to broaden coverage of the Act.

12. National Labor Relations Act Amendments of 1974, which extended coverage of the Act to voluntary hospitals.

13. Federal Employees Compensation Act of 1974, to improve benefits and administration under the Act.

14. Farm Labor Contractor Registration Act Amendments of 1974, to broaden the coverage and strengthen the protections of migrant workers under the Act.

15. Emergency Jobs and Unemployment Assistance Act of 1974, to provide for an expansion of public service jobs and to establish the Special Unemployment Assistance Program of unemployment compensation for workers not covered under the Federal-State system, including domestic, farm workers, and public employees.

16. Emergency Unemployment Compensation Act of 1974, and subsequent Javits amendments thereto, to provide for an extension of the duration of unemployment benefits during the 1975–1977 recession.

17. Unemployment Insurance System Revitalization Act of 1979, which would reform the financing of the unemployment insurance system and the program for extended benefits during recessionary periods.

18. The Farm Labor Contractor Amendments of 1980, a bill to eliminate unnecessary regulatory requirements of farmers, food processors, cotton ginners, canners, and other stationary agricultural employers who employ migrant and seasonal workers and to clarify coverage under the Farm Labor Contractor Registration Act of 1963.

Mr. JAVITS. Mr. President, I think the finest compliment we could pay to Mr. Zimmerman is that I find him as unflappable today as when these proceedings started. He would have a right as a young man, who certainly has absolutely nothing against him, to feel deeply unhappy, even resentful, at the fact that his great opportunity to achieve a high public office has been thwarted for no reason for which he is in any way responsible, for extraneous strategies respecting how the National Labor Relations Board will be composed, and what the political faith shall be of the members who are confirmed.

I might point out, too, that this does not even fall under the barrier which naturally comes to the minds of people on my side of the aisle as they see the Presidency within reach. It happened with the Democrats out in 1976, and it happens with us. But we have consented to quite a few appointments in recent days, and we probably will, consistent with the policy we have adopted here of screening them, consent to others, and I see no reason whatever really why Zimmerman should have been caught in this net. It was not, to my mind, intended for him.

So I hope very much that the Senate will allow him to realize this place for which he is so very eminently fitted, and I feel very deeply it will be a great benefit to our country and that Members will be gratified as they see his performance in this post.

I hope very much this is the day on which we can do what needs to be done to effect cloture, to confirm him, and to go on to our many other responsibilities.

Mr. President, a parliamentary inquiry.

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

Mr. JAVITS. Is it in order to suggest the absence of a quorum?

The ACTING PRESIDENT pro tempore. On the time of the Senator from New Jersey.

Mr. WILLIAMS. It is certainly in order to suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Does the Senator from New Jersey so yield?

Mr. WILLIAMS. I yield.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I hope very much that this may be the last word on this nomination. I think we have exhausted the subject, though any post of responsibility in the Federal Government is worth all the time we wish to spend on it. The fact is, Mr. President, that it suddenly begins to reverse upon itself.

I hope very much that today we will act affirmatively upon this nomination, which really should have been completely routine, without any political implication whatever. This nomination simply involves a man who has earned it by a high degree of public service and devotion to his duty in a strictly professional capacity. Incidentally, representing the Republican side in the committee I was the ranking member for a considerable number of years and followed our very distinguished and beloved colleague, Senator GOLDWATER, in that job. We simply found a good professional and hired him. He served the minority, every Member of the minority, liberal, conservative, moderate, whatever he might have been, with singular devotion, attention to duty, and, as far as I can see, to their complete satisfaction. Here he comes to the high point of his career to be appointed to a job for which he has been training all his professional life, and we get our feet entangled in all kinds of political considerations without embroiling this nomination in those matters, we should make a strictly professional assessment of the man.

It may be of interest to the Senate—I hope it is—that my interest in this nomination was that of any person who had a staff member nominated to office. I was delighted to see Mr. Zimmerman seriously considered by the White House. I recommended him, but I took no special stellar part in his nomination. I believed in his qualifications then, as I do now. I hope he is confirmed today.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The 1 hour having passed since the Senate convened, the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Mr. Don Zimmerman, to be a member of the National Labor Relations Board.

Robert C. Byrd, Harrison A. Williams, Jr., Howard M. Metzenbaum, William Proxmire, George T. Mitchell, Gary Hart, Henry M. Jackson, Spark M. Matsunaga, Max Baucus, Robert T. Stafford, Claiborne Pell, Jacob K. Javits, Paul S. Sarbanes, John A. Durkin, Warren G. Magnuson, George McGovern, Adlai E. Stevenson, Dennis DeConcini, and Jennings Randolph.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 17 Ex.]

Baker	Garn	Levin
Byrd, Robert C.	Goldwater	Williams
Culver	Hollings	Zorinsky
	Javits	

The PRESIDING OFFICER (Mr. LEVIN). A quorum is not present. The clerk will call the names of the absent Senators.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 87, nays 2, as follows:

[Rollcall Vote No. 343 Ex.]

YEAS—87

Armstrong	Gravel	Nunn
Baker	Hart	Packwood
Baucus	Hatch	Pell
Bayh	Hatfield	Percy
Bellmon	Hayakawa	Pressler
Bentsen	Heflin	Proxmire
Biden	Heinz	Pryor
Boren	Helms	Randolph
Boschwitz	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Roth
Byrd, Harry F., Jr.	Inouye	Sarbanes
	Jackson	Sasser
Byrd, Robert C.	Javits	Schmitt
Cannon	Jepsen	Schweiker
Chafee	Johnston	Simpson
Chiles	Kassebaum	Stafford
Cochran	Laxalt	Stennis
Cohen	Leahy	Stevens
Cranston	Levin	Stewart
Culver	Lugar	Stone
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	McGovern	Tsongas
Domenici	Melcher	Warner
Eagleton	Metzenbaum	Williams
Exon	Mitchell	Young
Ford	Morgan	Zorinsky
Garn	Moynihan	
Glenn	Nelson	

NAYS—2

Goldwater	Weicker

NOT VOTING—11

Bradley	Kennedy	Stevenson
Church	Long	Talmadge
Durenberger	Matsunaga	Wallop
Durkin	McClure	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Mr. Don Zimmerman to be a member of the National Labor Relations Board should be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessary absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 63, nays 31, as follows:

[Rollcall Vote No. 344 Ex.]

YEAS—63

Baker	Chafee	Glenn
Baucus	Cohen	Gravel
Bayh	Cranston	Hart
Bentsen	Culver	Hatfield
Biden	Danforth	Heflin
Boren	DeConcini	Heinz
Bradley	Durkin	Huddleston
Bumpers	Eagleton	Inouye
Burdick	Exon	Jackson
Byrd, Robert C.	Ford	Javits
Johnston	Mitchell	Sarbanes
Kassebaum	Moynihan	Sasser
Kennedy	Nelson	Schweiker
Leahy	Packwood	Stafford
Levin	Pell	Stennis
Magnuson	Percy	Stevens
Mathias	Proxmire	Stevenson
Matsunaga	Pryor	Stewart
McGovern	Randolph	Tsongas
Melcher	Ribicoff	Weicker
Metzenbaum	Riegle	Williams

NAYS—31

Armstrong	Goldwater	Pressler
Bellmon	Hatch	Roth
Boschwitz	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Helms	Simpson
	Hollings	Stone
Cannon	Humphrey	Thurmond
Chiles	Jepsen	Tower
Cochran	Laxalt	Warner
Dole	Lugar	Young
Domenici	Morgan	Zorinsky
Garn	Nunn	

NOT VOTING—6

Church	Long	Talmadge
Durenberger	McClure	Wallop

The PRESIDING OFFICER. On this vote there are 63 yeas and 31 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. ROBERT C. BYRD. Mr. President, cloture having been invoked, I would now like to inquire of the distinguished Senator from Utah (Mr. HATCH) as to whether or not he would be agreeable to the Senate proceeding immediately to a vote on the nomination.

Mr. HATCH. Mr. President, I do not intend to use my hour, and I do believe the Senate has worked its will, and that by three votes above the minimum necessary, we have invoked cloture, and so not knowing anybody on our side of the aisle who would like to speak—if there is any Member, I would prefer that they do not—but I see the distinguished Senator from New Hampshire wishes the floor, and I yield to the distinguished Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I certainly want to have at least 2 minutes to address the Senate.

Mr. HATCH. If the Senator from New Hampshire will indulge me——

The PRESIDING OFFICER. Will the Senator suspend? The Senate will be in order.

The Senator from Utah.

Mr. HATCH. As soon as the Senator from New Hampshire has finished with his remarks I suggest that we ask unanimous consent to proceed to a vote and vote up or down on this nomination.

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

Mr. ROBERT C. BYRD. Yes. May I make this suggestion and see if it is agreeable? I ask unanimous consent that Senators may put their statements into the RECORD as though read today with respect to this nomination, and that the vote proceed on the nomination at no later than 11 a.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I have a statement, but cloture has been invoked, and it would be futile to continue the fight now, and I therefore ask unanimous consent that my statement appear in the RECORD prior to the vote.

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

Mr. THURMOND. Mr. President, I rise in opposition to the nomination by President Carter of Don Alan Zimmerman to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1984. This vacancy was occasioned by the resignation of Ms. Betty Southard Murphy, who stepped down "under protest" because of alleged foot-dragging by the White House in recommending to Congress that she be reappointed.

In order that my colleagues may better understand my opposition to the appointment of Mr. Zimmerman, I wish to set forth a brief background of the structure and operations of the National Labor Relations Board. This background will serve to illustrate why it is imperative that the interests of the business and labor communities be taken into account fully if the Federal labor laws are to be administered as Congress intended. At the outset, I question whether a Board comprised of three liberal Democrats who have shown themselves to be prolabor, one Republican, and one reformed Democrat turned "Independent" who is apparently also of a liberal, prolabor philosophy, can sit in judgment of the labor disputes of this country with an objective and impartial frame of mind.

In 1935, Congress enacted legislation which created an administrative agency, the National Labor Relations Board, whose task it was to implement both the unfair labor practice provisions and the elections and representation provisions of the National Labor Relations Act, also known as the Wagner Act. The Board originally was composed of three members appointed by the President and confirmed by the Senate and was charged with the duty of supervising the election process as well as processing unfair labor practice charges through investigation, prosecution, and adjudication.

In 1947, significant and important changes were made in the Labor Act by the enactment of the Taft-Hartley Act. One of the changes made in the law was that the Board was expanded to five members to be appointed by the President and to serve for staggered 5-year terms. Also, in unfair labor practice cases, the five Board members retained the power to adjudicate, but the functions of investigation and prosecution were assigned to the General Counsel. Mr. President, it was only a few weeks ago that the Senate debated thoroughly the nomination of William Lubbers to the position of General Counsel of the National Labor Relations Board because Mr. Lubbers' ability to investigate and prosecute unfair labor practices in an impartial and nonpartisan manner was questioned. Similar objections and concerns have been raised with regard to the Zimmerman nomination. It has been pointed out that the position of member of the National Labor Relations Board carries with it perhaps even greater policy significance than the position of General Counsel.

Mr. President, I ask my fellow Senators to bear in mind that at all times during both the debate leading up to the enactment of the Wagner Act in 1935 and the adoption of the Taft-Hartley Amendments in 1947, the intent of Congress was to structure the Board so that it would be composed of members who would act fairly and impartially in administering the Federal labor laws by taking into account the views of both business and labor.

Mr. President, the policy of the national labor relations laws is to provide for the protection of employees in their right to act in free concert in dealing with their employer. This policy necessarily includes the protection of the right of employees to select or to refrain from selecting representatives of their own choosing. I remind my colleagues that the promotion of employee free choice has not been an easy task. The balance which exists today in the labor laws of this country has been carefully planned and worked out over the years since 1935. To tilt the scale in favor of either labor or management by Board appointments would dangerously contravene express policy of the law of labor-management relations.

Mr. President, I do not question that Mr. Zimmerman is a dedicated, capable individual of good moral character. It is my understanding that he has served ably as Chief Minority Counsel to the Senate Committee on Labor and Human Resources. However, my concern is that the nomination of a reformed Democrat turned "Independent" and, perhaps more importantly, an individual who has a liberal, prolabor philosophy, would upset the balance which was painstakingly implemented by our predecessors in the Congress. It appears to me that this nomination would drastically alter the 43-year-old National Labor Relations Act by allowing the National Labor Relations Board to institute "labor law reform." It is my contention that the confirmation of this nomination would render the policy of employee free choice a complete nullity.

Moreover, I oppose this nomination because Mr. Zimmerman has never practiced labor law and, therefore, does not have the expertise and knowledge which should be required of a person who will interpret the National Labor Relations Act, a highly complex and technical statute which is mastered only after years of study and practice. There has been a trend in recent years of declining court affirmance of National Labor Relations Board decisions; in 1976, the courts upheld 74 percent of the National Labor Relations Board's decisions, but in 1979 this figure dropped to 64.5 percent. This trend would suggest an increasing need for Board members who have demonstrated competence in the field of labor law, an area in which Mr. Zimmerman's experience is notably lacking. In order to stem the tide of increasing court reversals, it seems appropriate to appoint a Board member whose record reflects a more experienced background in labor law.

Mr. President, in conclusion, it is respectfully submitted that the nomination of Don Alan Zimmerman to be a member of the National Labor Relations Board is designed to overturn the national labor relations policy as has been carefully developed through the series of statutes and congressional enactments to which I briefly referred. This nomination is in reality an attempt by the President to stack the Board with four prolabor Democrats, in contradiction to a long-standing policy. Therefore, I urge rejection of Mr. Zimmerman's nomination.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HUMPHREY. Mr. President, reserving the right to object, I wish to be protected for 5 minutes. I do not think I will use that much time, but when we specify 11 o'clock I begin to worry about my rights.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator, who says he does not expect to speak more than 5 minutes, the Senate proceed to vote on the nomination and, as I say again, all Senators will have the right during the day to insert statements in the RECORD in opposition to or in support of the nomination.

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

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, for nearly 30 years, 30 years of tradition, the seat we are about to fill has belonged to the Republican Party. For very nearly 30 years both of the major parties have been allocated seats in proportion to whether the party is the majority or the minority party. If we are to confirm Mr. Zimmerman today, we are going to break that carefully fostered and nurtured tradition. I would entreat my colleagues on the Democrat side of the aisle not to stuff this man down our throats on this side. He is not a Republican. He is a registered Independent, and before that he was a registered Democrat.

There is nothing wrong with being a registered Democrat. I was one myself once upon a time, but today this man is a registered Independent.

We are filling a Republican seat. Please do not shove this man down our throats.

I have nothing against him. I am sure he is the finest public servant in Washington, if not in the Nation. I am sure his character is beyond reproach. But 30 years of tradition say this should be a Republican seat. Mr. Zimmerman by his own admission is a registered Independent.

I thank the Chair.

Mr. WILLIAMS. Mr. President, despite

all the flamboyant rhetoric that has been used to debate this nomination, I am confident that my colleagues will make their decision on the basis of facts. For that reason, I will confine my closing remarks on this matter to a few brief, cogent facts.

First, I would emphasize that Mr. Zimmerman is, and has been for 6 years, minority labor counsel on the Senate Committee on Labor and Human Resources. In that capacity, he has worked very closely with Senator JAVITS in particular and with other minority members of the committee. And we in the majority have also worked with Mr. Zimmerman and gotten to know him.

Thus, the Senate is about to vote upon the unanimously favorable recommendation of a committee which has known and worked with this nominee for 6 years. In my opinion, there could be no more persuasive circumstance in support of confirmation.

I would also like to reiterate for the benefit of my colleagues that Mr. Zimmerman's experience prior to his tenure with the committee staff will also serve him in good stead as a member of the National Labor Relations Board. This background includes work as special counsel to the trustees of the Penn Central Transportation Co., as a senior associate at the National Manpower Institute, as an analyst at the Office of Management and Budget, and as a foreign affairs officer in the Office of the Secretary of Defense.

As a background for his 6 years of experience as labor counsel to the Committee on Labor and Human Resources, I believe that these responsible and challenging positions will serve him in good stead as he considers the competing interests Board members must weigh in making their important decisions.

I would also like to reemphasize the point that it is entirely appropriate that the President has chosen to nominate for this position on the Board a person who is registered to vote as an independent. As we have discussed repeatedly in connection with this nomination, there is no statutory requirement that the Board membership be divided between the two major political parties. Indeed, I would seriously question the validity of any such requirement.

More importantly, however, there are only three Democrats on this five-member Board, and there is one Republican. With the addition of an Independent, the Board membership will closely resemble the party representation that existed on the Board in the past. There is ample precedent for this type of nomination.

Moreover, I want to emphasize that Mr. Zimmerman is an Independent with a 6-year history of being labor counsel to the Republicans on the Committee on Labor and Human Resources.

As I have said, the committee voted 12 to 0 to report this nomination favorably. And I think that Senator JAVITS summed up the committee's experience with Mr. Zimmerman very well last week in discussing his own view of Mr. Zimmerman's performance.

Senator JAVITS stated:

My feeling about him is that he is a very conservative man on labor issues. If there is going to be, in my judgment, any imbalance in his thinking, it would be for the established order. But I do not see any imbalance in his thinking. He is a very high-level professional of what I consider to be fine judicial temperament. I think he would make a splendid member of the NLRB.

Senator JAVITS also pointed out that for the entire 6 years that he served the whole minority of the Committee on Labor and Human Resources, insofar as they called upon his services, we have not heard any word uttered against him.

And this is the final point I want to make with regard to this nomination—all the factual arguments about it have been in favor of Mr. Zimmerman. Considered on the merits, this nomination is an excellent one that will not only add a very capable member to the NLRB, but will also serve to broaden the base of experience of the members of that body and keep the party affiliation of its membership consistent with past practice with regard to Board appointments.

Mr. Zimmerman will be an able Board member and I urge my colleagues to support confirmation.

Mr. HAYAKAWA. Mr. President, I wish to join my Senate colleagues who oppose the nomination of Don A. Zimmerman to the vacancy on the National Labor Relations Board.

The Board, which consists of only five members, performs a very important and sensitive role in the labor relations area. It is a quasi-judicial body created by Congress to administer, implement, and enforce the provisions of the National Labor Relations Act, and its authority extends to all firms or labor disputes that affect the commerce of our country. Its two principal functions are to prevent and remedy unfair labor practices by employers and labor or their agents, and to conduct secret ballot elections. Its expenditures for fiscal year 1979 were $100,219,603.

Since the Senate must consent to Presidential nominations to the Board, I believe this body thus bears the responsibility to examine very carefully the makeup of the Board so that the interests of the working men and women are treated in a fair and just manner. While I realize we have a heavy legislative calendar to consider before recess, I believe that this nomination to a very sensitive post for a 5-year term should be given all the time necessary to insure that every consideration is given to the long-range effect it will have on millions of people.

While it is true that there is no statutory provision governing the political persuasion of the members of the NLRB, it is a tradition, accepted by Democrats and Republicans, that the Board be bipartisan. When Independents were named to the Board on very few occasions, this action was in reality a break with tradition. Many people agree that the interests of business and labor are served fairly and well when this traditional bipartisan membership is in effect.

May I say for the record that my opposition to the appointment is not personal in nature. I have no quarrel with the nominee's professional competence or, certainly, with his committee sponsor, my distinguished colleague from New York, Senator JAVITS. Rather, it stems from my conviction that the general philosophical approach to the important issues that come before the Board should be a matter of public knowledge. While there is no "hard and fast" line to a Republican or Democratic approach to labor issues, the stated political persuasion of the Board members does provide a general indication of their background and record in labor matters for those whose cases come before the Board. A registered Independent, on the other hand, provides an unknown factor that may possibly be detrimental to those seeing Board opinions.

Mr. President, I have given this matter a good deal of thought and I wish to state for the record that I do not support this nomination.

Mr. HELMS. Mr. President, I must oppose the nomination of Don A. Zimmerman to the National Labor Relations Board. My opposition to Mr. Zimmerman's nomination is not personal. Nor does it relate to his professional qualifications, for I understand he is a competent labor attorney.

My concern is that this nomination would have a detrimental effect on labor-management relations.

The National Labor Relations Board was established to administer the Nation's labor relations laws. The principal functions of the Board are to prevent and remedy unfair labor practices, and to conduct elections among employees regarding union representation.

In order to preserve the delicate balance between labor and management, the NLRB must conduct its business fairly and impartially. There are many who believe that this balance has shifted in favor of labor. For example, recently the appellate courts have been reversing an increasing number of the Board's decisions. Leaders in the field of labor law say this is because the Board's decisions have become so biased in favor of labor that the courts are losing confidence in the Board's expertise.

Another example involves the partisan makeup of the five-member Board. The National Labor Relations Act does not require a balance between political parties on the Board. But traditionally, with only a few exceptions, the Board has been bipartisan.

The present Board consists of three Democrats and one Republican. The member whose seat Mr. Zimmerman would take is a Republican. But Mr. Zimmerman is an Independent—formerly a Democrat.

With Mr. Zimmerman on the Board, its composition would be three Democrats, one Independent, and one Republican. I cannot, of course, predict the practical consequences of such composition. It would, however, create an obvious imbalance in favor of the party commonly associated with labor union leaders.

It is imperative that the NLRB have the confidence of both labor and management. There is a feeling in the business community that an attempt is being made to pack the Board with labor advocates.

Chairman John Fanning is considered by many as possibly the most prolabor Chairman the Board has ever had. The new General Counsel, William Lubbers, has a 20-year staff association with Mr. Fanning, and is generally considered to share the Chairman's prolabor bias.

Mr. Zimmerman, while he was minority counsel to the Senate Committee on Labor and Human Resources, was closely associated with prolabor positions on two of the most controversial issues dividing the labor and business communities in recent years—common situs picketing and labor law reform.

His nomination is consequently opposed by such business groups as the U.S. Chamber of Commerce, the Associated Builders and Contractors, and the Associated General Contractors.

The business community has not asked that a business advocate be appointed to the Board. They only ask that the nominee appear objective. In all candor, many are not convinced of Mr. Zimmerman's capability to be objective in this sensitive post, considering his past activities and advocacies.

Further loss of confidence by the business community in the NLRB will have a detrimental effect on labor-management relations. I urge my colleagues to consider this matter carefully, because this nomination could have immense impact, if Mr. Zimmerman is confirmed—an impact that may very well adversely affect our economy.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the nomination.

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Don Alan Zimmerman to be a member of the National Labor Relations Board? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr. BOREN). Are there other Senators desiring to vote?

The result was announced—yeas 68, nays 27, as follows:

[Rollcall Vote No. 345 Ex.]

YEAS—68

Baker	Glenn	Moynihan
Baucus	Goldwater	Nelson
Bayh	Gravel	Packwood
Bentsen	Hart	Pell
Biden	Hatfield	Percy
Boren	Heflin	Proxmire
Boschwitz	Heinz	Pryor
Bradley	Huddleston	Randolph
Bumpers	Inouye	Ribicoff
Burdick	Jackson	Riegle
Byrd, Robert C.	Javits	Roth
Cannon	Johnston	Sarbanes
Chafee	Kassebaum	Sasser
Cohen	Kennedy	Schweiker
Cranston	Leahy	Stafford
Culver	Levin	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Stewart
Dole	Matsunaga	Tsongas
Durkin	McGovern	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Young
Ford	Mitchell	

NAYS—27

Armstrong	Hayakawa	Schmitt
Bellmon	Helms	Simpson
Byrd, Harry F., Jr.	Hollings	Stennis
	Humphrey	Stone
Chiles	Jepsen	Thurmond
Cochran	Laxalt	Tower
Domenici	Lugar	Warner
Durenberger	Morgan	Zorinsky
Garn	Nunn	
Hatch	Pressler	

NOT VOTING—5

Church	McClure	Wallop
Long	Talmadge	

So the nomination was confirmed.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the President be immediately notified.

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

Mr. JAVITS. Mr. President, may I thank the leadership for their courtesy to me, all those who favored the nomination, and all those in opposition. I think it was very fairly and justly handled. I am very grateful to the leadership on the Republican and Democratic sides and my colleagues who supported this nomination.

This man is really a professional. I think his confirmation should encourage other younger men to take on hard jobs. The Senate has seen its way through this particular nomination in a very satisfactory manner. I thank my colleagues.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the leadership, I thank the Senator for his kind remarks.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 5 minutes, and that Senators may speak therein.

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

COLONEL QADDAFI'S MOTIVES

Mr. HATCH. Mr. President, what is the Government of Libya really up to? Can we really just call Col. Muamar Qaddafi a "madman" and forget him? My view is that this administration and especially Billy Carter are victims of a very shrewd operator who has a carefully thought out plan for himself and his country's future political role in Africa, in the Middle East, and in the world. Once we see what Qaddafi is up to, it is easy to see what Billy Carter's role was to have been in the larger context. If we do not examine Libyan involvement with Billy Carter in its larger strategic context, we will easily condone and forgive the Carter brothers for just trying to be friendly with another Arab country like Egypt or Morocco. Mr. President, I submit that the background evidence I am about to present suggests that Libya is not just another Arab country. For this reason, the sins of Billy Carter go beyond merely wheeling and dealing with an ordinary foreign power and possible violation of the Foreign Agents Registration Act. And I am not even going to mention Libya's well-known support for terrorists.

First, Mr. President, we can see from Colonel Qaddafi's internal political maneuvering that he is no madman but a shrewd politician indeed. Libyan internal politics are not a quiet training ground for statesmen, however. Of the original 12 members of the revolutionary council that overthrew King Idris in 1969, only the colonel and four others are left, and those who have departed the leadership have not done so by natural cause.

In fact, even those in the most trusted positions around the colonel have apparently not been exempt from careful examination. His chief of intelligence, Muhammad Idris Sharif, has been arrested for attempted murder of the colonel. His air force chief has been arrested for similar charges involving a crash of the colonel's helicopter. Five economic ministers were dismissed in 1979. Foreign Minister Abd El Munim, and revolutionary council member Miheishy, as well as the secretary-general of the Arab Socialist Union Party—founded by the colonel—have all fled for their lives in recent years. Even the Soviet advisers in Libya seem to have had their troubles with Libyan internal politics, and—according to the foreign editor of London's Financial Times in a May 10, 1980, article—about 50 Libyan officers were executed last year following a violent confrontation with Soviet advisers.

Mr. President, in this turbulent po-

litical environment, how has Colonel Qaddafi survived and led his country these long 11 years since the 1969 coup against King Idris? Before I address the subject of his foreign policy, let me point out a few examples of the colonel's domestic political manipulations. Bear in mind that Libya is really three provinces—Fezan in the south, Tripolitania in the west, and Qiranaika in the east—held together in a shaky coalition rendered unstable by the differences among the tribes in each province, by the differences in wealth and customs of the urban dwellers along the coast against the desert nomads, and by differences among the leadership over how to spend Libya's vast oil wealth.

In this contest, Qaddafi the manipulator has prospered by playing on the same kind of close, family relationships that he has tried to exploit in the Carter family of Georgia. Now, the colonel himself is from a tribe which wandered to Libya from the Western Sahara desert, now located in between the three large provinces. How does he maintain his standing? He married a woman from Qiranaika, the province oriented toward the Arab east. What about the other two provinces? The colonel's propaganda has made the the Fezan people well aware that the colonel's chief of staff (Abu Bakr Yunes Jaber) has a mother from the Fezan-Chad region. The number two leader in Libya is from Tripolitania, Mr. Jaloud. That is the delicate internal political balance of Qaddafi's Libya.

While balancing the regional differences at the top, the colonel tries to penetrate the country by cultivating the army's loyality and spreading his own "Arab Socialist Union Party" as his representative throughout all provinces. Qaddafi has set up "popular committees" which claim to rule in his name, and, more importantly, which impose the bizarre interpretations of Islam contained in Qaddafi's own holy book, the so-called Green Book. Now, the colonel is entitled to his religious views, I suppose, but not according to his own Islamic elders who have been eroding his support. The Islamic elders believe that the colonel should have no right to set himself up as prophet able to innovate within the sacred laws of Islam.

In other words, Mr. President, the colonel is brazen—he not only arranges his internal political situation to insure his lifelong domination of Libya, but even takes on the Islamic elders, always with the army behind him, except for a few mutinies and arrests here and there. And that is the heart of the matter. What must the colonel be doing and keep on doing to maintain the loyalty and support of the Libyan high command? How does he keep the game going against the odds?

That, Mr. President, is where Jimmy Carter and his brother Billy come in. For the question that Billy raises for us is how much the colonel wanted those eight C–130 transport aircraft to be delivered to his armed forces. The C–130 must be designed for a major role. They will, after all, transport impressive amounts of men, weapons, and ammunition to battlefield airstrips. That is how we use them. But where and how does the colonel plan to send soldiers and weapons? There are any number of possibilities that can be guessed from the colonel's recent history of military adventures. Most of the colonel's targets are friends of the United States. Here is an Arab leader, Mr. President, who not only denies Israel's right to exist, but wants to overthrow Sadat as well.

The British press has been covering the colonel's adventures better than our press, Mr. President. Readers of the Sunday Times of February 17 learned of 20 Libyan army camps in which 7,000 guerrilla fighters are being trained from eight African countries with which the United States has good relations—Egypt, Tunisia, Nigeria, Zaire, Mali, the Ivory Coast, Benin, and Guinea. The colonel has several times called for the overthrow of President Sadat of Egypt and has been accused of a major arms smuggling operation into Egypt to help overthrow Sadat after the failure of attempted intimidation of Egypt by border raids. Always aware of public relations, however, the colonel is building an expensive 600-mile-long "Great Wall" between Libya and Egypt which is supposedly to defend poor little Libya. In fact, the colonel has every right to be apprehensive that he may have tried Sadat's patience once too often.

There has been a long list of military interventions by the colonel—in Chad, in Uganda to help Idi Amin, in the Central African Republic. Yet these failures seem only to have emboldened the colonel and, more importantly, attracted even more Soviet support and military equipment. According to the New York Times on March 14, Libya is acquiring 2,000 tanks which will make the colonel the commander of the world's 10th largest armored force. The 700 fighter planes he is acquiring will give him more fighters than Japan has, and his location on the Mediterranean coast will permit Libya to keep track of military movements in the entire area patrolled by our Sixth Fleet. It is no surprise to hear that the Soviets are improving Libya's port of Barada for heavier ships. I wonder whose navy is planning to call?

Mr. President, I see no other reasonable conclusion than that Colonel Qaddafi is out to become Castro No. 2. He is making Libya the Cuba of the Arab World and of Africa. Unlike Fidel, however, the colonel is financed by selling oil, not by Soviet subsidy. This doubles the strategic damage that the colonel can do to our country and our friends. Not only does the colonel have a strategic location better than Cuba's from which he can make mischief north, south, east, or west, but he is able to pay his own way. How pleased Leonid Brezhnev must be to have all the advantages and more of Castro's Cuba, and to make a profit as well.

I do not need to remind Senators what a difference in public reaction there would be if Billy Carter were asked to register as a foreign agent for Castro. Yet, somehow, Libya and its colonel are so far away that we have missed the main point about the Billy Carter-Libyan connection. It is not just that Billy is a foreign agent. It is which foreigner he is an agent for.

If it is any consolation to the President and his brother, I offer this thought: You are not the first to be caught dealing with the colonel. Both the Christian Science Monitor in February and the French journal Le Canard Enchaine last December described the role of President Giscard d'Estaing's nephew in aiding the military objectives of Colonel Qaddafi. But the French connection was no mere release of eight C–130 aircraft. No, the colonel wanted and apparently got something bigger from a French-controlled company—300 tons of uranium. Colonel Qaddafi knows what he needs, I suppose, and he knows how to find friendly relatives of Presidents who can help out.

GENOCIDE: IT CAN BE PREVENTED

Mr. PROXMIRE. Mr. President, 36 years after the holocaust, and 32 years after the introduction of the Genocide Convention, it seems that the Senate has forgotten the practical importance of symbolic moral action.

Many criticize the treaty on the grounds that, because it lacks legal authority, it could never change anything in the real world, it could never really halt genocide. Mr. President, in order to refute this specious claim, I have sought out historical examples of symbolic action that have had tremendous practical significance. Mere statements, such as those in the Genocide Convention, have actually stopped acts of genocide.

In my search for these precedents, the story of religious opposition to Hitler's euthanasia program was particularly outstanding. Operating without the force of law, making use of purely symbolic moral statements, one religious leader in particular made a difference.

This man, Pastor Martin Niemoller, motivated his congregation to vehemently protest the Nazi policy of genocide against the aged, infirm, and mentally retarded. The euthanasia program had begun unannounced shortly after Hitler's rise to power. In the mid to late thirties, families began receiving notices of the death by heart failure of institutionalized relatives. Comparing these notices, relatives of the deceased recognized a similarity among the stated causes of death. Soon it was widely suspected that mass gassings were in fact taking place.

Those living near or working in state institutions confirmed the suspicions and an extraordinary public outcry was heard, spearheaded by the church. Recognizing a fundamental threat to his political power, Hitler felt that he had to compromise with the powerful church elements, lead by Pastor Niemoller. Shortly after the deaths began, they

were stopped—a striking example of a moral condemnation with concrete effect.

Mr. President, if anyone has been thought beyond the reach of moral statements and protests, it was Hitler. But even this dictator yielded to a moral proclamation. With this kind of precedent, I ask my colleagues why we still refuse the ratification of a moral document that would go beyond even Pastor Niemoller's statement. The Genocide Convention, if ratified, would carry with it the force of an entire nation.

If such statements could have so profound an impact on the most autocratic regime of modern times, think of its possible benefits to a world order already more humane than the Nazi regime.

Surely if Pastor Niemoller could summon the relatively small effort necessary to rise up in support of the Genocide Convention, which is so perfectly in tune with the fundamental policies of our state.

Mr. President, Pastor Niemoller perished in a concentration camp for his statements in opposition to genocide, but thousands were saved by his moral leadership. In the comfort of our democracy, is there any excuse for us not to reaffirm Pastor Niemoller's moral stand? We cannot see the future clearly enough to be sure that our actions will not someday make a difference.

The case of Pastor Niemoller, who helped call a halt to Hitler's genocidal policy of euthanasia, proves to us that moral statements, even without support from political authority, can make a difference. Let us make a moral statement today—and ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

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

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, the Senate will now resume consideration of H.R. 39, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally to all sides.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, reserving the right to object, I am here and prepared to conduct business, and the others are not. My time is very precious. The others have overwhelming amounts of time compared to what I have.

I would hope that the time will be charged to the main managers of the bill, Senator JACKSON and Senator HATFIELD.

Mr. ROBERT C. BYRD. Mr. President, I do not have any desire to impose on anyone's time. Mr. TSONGAS is here, Mr. HART is here, Mr. GRAVEL is here, Mr. JACKSON is on his way, and Mr. HATFIELD is on his way. I therefore yield the floor.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the time for the quorum call not be charged against anybody's time.

The PRESIDING OFFICER. Is there objection?

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

Mr. ROBERT C. BYRD. Mr. President, I do not think we should have quorum calls and not have them charged. I respectfully object to the request.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the time be charged to the Senator from Washington and the Senator from Oregon equally.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. Mr. JACKSON has by far more time than any other Senator. I hope he will not resent my asking that the time be charged against him in this instance. Therefore, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The 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 (Mr. MITCHELL). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am going to put in a live quorum because the time is wasting. I would hope Senators would come to the floor.

I hesitate to put in a live quorum because there are committees that are attempting to meet and I would rather not disturb them.

But I would suggest that if debate does not start on this measure within 5 minutes, I will be constrained to suggest a live quorum which will result in a rollcall vote.

So at the moment, I withhold any indication on the presence of a live quorum, and I shall wait 5 minutes.

Mr. President, I ask unanimous consent that the time be charged on this quorum against Mr. JACKSON, as I earlier conditioned.

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

The clerk will call the roll.

The 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.

Mr. ROBERT C. BYRD. Mr. President, tomorrow is the last day before the August break for the convention, and the Alaska lands bill is now pending. Time is of the essence.

I suppose that close to 20 minutes or a half-hour have passed since the nomination was voted on. I urge that Senators come to the floor and begin work on this bill. Several Senators are in the Chamber, but nobody seems to be willing to proceed at the moment. Everybody is waiting on everybody else, I suppose.

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

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. My understanding was that when we reconvened this morning, we would proceed immediately to the amendments to be offered by the Senator from Alaska, and we are prepared.

Mr. ROBERT C. BYRD. Can the Senator from Alaska proceed with his amendment?

Mr. GRAVEL. Mr. President, it was my understanding that we would have the principals here to engage in working the will of the Senate; and we do not have the principals here—the committee chairman and the other Senator from Alaska. Certainly, I am prepared to send to the desk my amendment and ask that it be considered, but I do not think it is unfair to expect to have all the principals here on this issue.

Mr. ROBERT C. BYRD. I am sure that the other principals will be here. In my judgment, it is not a justification for the Senator not proceeding to call up his amendment. If he calls up his amendment, the leadership will do everything possible to get the Senators here shortly. I hope the Senator will send his amendment to the desk.

Mr. GRAVEL. I am happy to accommodate the majority leader and send my amendment to the desk. I ask that immediately after that, the majority leader put in a quorum call and get the principals here, and be patient until we get the principals here.

I have no problem in making this the pending business, with the proviso that we get the principals here. Otherwise, I will be speaking to two fine colleagues, but they are not the only principals involved in the process.

It is not with disrespect to these honorable men, and certainly with the fullest respect to the majority leader, that I believe I am totally within my right in insisting that these gentlemen partake in the process, since they did partake in the process for a week and a half behind closed doors.

With that proviso, I would be willing to cooperate fully with the majority leader and, as indicated yesterday, to call up my amendment, but then have a quorum call, awaiting the arrival of the

Senator from Oregon and the Senator from Alaska.

Mr. TSONGAS. I will not object to the quorum call, so long as the time is equally divided. If we are going to be in a situation where one person happens to leave the Chamber and we will have everything suspended, we will be here until Christmas.

Mr. GRAVEL. I do not believe that was the intent of my proposal. I believe I am entitled to have the major proponents here at least when I explain the initial part of it. I do not think I would make that request after that. We are about to begin, and no one is here but the three of us.

Mr. TSONGAS. I say to the Senator from Alaska that I have spent a good part of my senatorial career speaking to an empty Chamber.

Mr. GRAVEL. I say to the Senator from Massachusetts that I am trying to improve on the quality of his career.

Mr. TSONGAS. I think the Senator just did.

Mr. ROBERT C. BYRD, Mr. President, I do believe this colloquy is adding to the illumination of Senators on the matter at issue.

Mr. STEVENS is here and Mr. HATFIELD is here; Mr. GRAVEL is here. Mr. JACKSON is on his way.

I hope the Senator will present his amendment and proceed with it, because I do not believe that, in the end, the situation will be influenced by waiting another minute or stating who is not here or who is.

Will the Senator proceed?

UP AMENDMENT NO. 1501

(Purpose: To redesignate certain limited acreage within proposed national parks as park preserves in order to allow the continued opportunity for sport hunting and trapping)

Mr. GRAVEL. I thank the majority leader. Hope springs eternal, and I always think there is a chance that you may persuade someone around here. You never know.

Mr. President, I send to the desk my amendment, and I ask that it be read. It is a very short amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1501:

Page 372, delete lines 5 through 8 and insert the following:

"ing approximately four million three hundred and seventy-nine thousand acres of Federal lands, Gates of the Arctic National Preserve, containing approximately two million five hundred and thirty-nine thousand acres of Federal".

Page 376, delete lines 19 through 22 and insert the following:

"proximately two million two hundred and ninety-five thousand acres of Federal lands, and Lake Clark National Preserve containing approximately one million three hundred and fifty-eight thousand acres of Federal lands,".

Page 378, delete lines 19 through 22 and insert the following:

"taining approximately seven million three hundred and sixty-seven thousand acres of Federal lands, and Wrangell-St. Elias Preserve, containing approximately three million seven hundred and sixteen thousand acres".

Page 381, delete lines 6 through 10 and insert the following:

"(2) Katmai National Monument by the addition of an area containing approximately eight hundred and seventy-seven thousand acres of Federal land. An addition four hundred an sixty-eight thousand acres of Federal land is hereby established as Katmai National Pre-"

Page 381, delete lines 21 through 25 and insert the following:

"(3)(a) Mount McKinley National Park by the addition of an area containing approximately one million eight hundred and sixty-five thousand acres of Federal land, and an aditional one million eight hundred and ninety-one thousand acres of Federal land is hereby es-"

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, a parliamentary inquiry. What is the time situation for all the parties at this time? How much time does the Senator from Washington (Mr. JACKSON) have on the bill?

The PRESIDING OFFICER. Senator JACKSON has 183 minutes. Senators HATFIELD and STEVENS have 114 minutes. Senators DURKIN and TSONGAS have 109 minutes. The Senator from Alaska has 56 minutes.

Mr. GRAVEL. Senators HATFIELD and STEVENS have 114 minutes. Is that what the Chair has stated?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. I thank the Chair.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. I have an hour on this amendment and the opponents have an hour on this amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, I yield myself 10 minutes.

The amendment that I have sent to the desk redesignates approximately 1,970,000 acres of the 22,250,000 acres of national parklands in the Senate committee bill as national park preserve lands.

So what we are doing with this amendment is changing the status of parklands to preserve lands to the tune of 1,970,000 acres.

The amendment includes acreage redesignations in five units of the national park system in the bill: The Gates of the Arctic wherein we designate and preserve 422,000 acres; Lake Clark, 144,000 acres; the Wrangell-St. Elias, 623,000 acres; Katmai, 59,000 acres; and the Denali, 722,000 acres.

If I might take this opportunity to point them out on the map for the benefit of our colleagues, this here is the Gates of the Arctic Area that would be added as a preserve. This is, of course, the McKinley Park which is redesignated as Denali Park. And this is the area that would be designated a preserve. This area here for the Lake Clark Area, and this area here for the Katmai Area, and this area here for the Wrangell-St. Elias.

I do want to thank the distinguished Senator from Massachusetts for his unusual generosity in his compromise. He was able to see fit to include in his compromise this little area here southwest of the present existing park where hunting would be permitted. All the other areas were not accommodated. So I think that this depicts pretty graphically the nature of the compromise. They could have gone into these other areas, but did not except this minor area here.

In all but Denali, the remaining park areas would be reduced by less than 10 percent. Overall, this amendment affects only 9 percent of the national park acreage proposed in the Senate committee bill and only 5 percent of all lands proposed for inclusion in the national park system in Alaska.

Under the provisions of the bill, preserve designation varies from park designation only in that sport hunting and trapping uses are permitted in a preserve.

Mr. President, let me underscore this. We are not talking here about anything that is radical. We are just saying that in all aspects, all other management prescriptions, including those for timber, hard-rock mining, oil and gas, and other developments would be identical to those in the parks. So we are not touching any other facet of these parks other than to permit hunting, guiding, and trapping.

Sport hunting and trapping in addition to subsistence uses of wildlife have been occurring for decades in many of the areas proposed for the national park designation. The outstanding wildlife resources which characterize many of the proposed park units have sustained this hunting and trapping use under State management with no apparent adverse impact on game populations.

Mr. President, in the course of the deliberations of the committee which I attended through the gracious invitation of the distinguished junior Senator from the State of Washington, I had raised the question to the staff and members of the committee if any study had been made to determine the impact on wildlife by denying hunting, since there has been hunting in these areas for decades. What now would be the impact on this wildlife by abruptly cutting off a practice that seems to have created a balance of wildlife?

I think we are all familiar with situations where various wildlife in ecosystems develop a balance and with proper management—and we have had proper management by the State in Alaska—that balance is maintained.

Now if we suddenly cut out the hunting, what will be the impact on the wildlife? No one knows. There are no study done by the committee. There is no

study done by the Interior Department. There is a capricious act that is taking place.

So in fact, what could be a sincere desire to take care of the wildlife in the habitat may actually destroy the habitat and the wildlife. A greater abundance of wildlife as a result of no hunting could throw things out of balance and literally destroy the habitat.

We have seen this with the Pribilof seals, where there is great opposition to the harvesting in the Pribilofs. There is ample empirical evidence to show that were we to alter this pattern we likely would drive the Pribilof herd almost literally to extinction.

So with that empirical evidence, to go forward with this in no more than a capricious fashion I think raises strong questions.

When I raised this in the committee I was informed that no study had been made by Interior and no study had been made by the committee. We just capriciously go forward to alter this very delicate natural balance. It is unfortunate because for some reason there are people in our society who do not feel that homo sapiens are part of the balance of nature. For some reason some people think that human beings are outside of the ecosystem and, of course, that is not the case. They are no more outside of the ecosystem than moose, lynx, bear, caribou; than the hundreds of millions of cattle that are slaughtered daily so that we may grace our tables with red meat and enjoy the protein to nourish our bodies.

So if the balance is not injurious to our ecosystem in that respect then I might say that the proponents of this legislation do potential violence to the balance of the Alaskan ecosystem.

Were they to come forward with a study that had anticipated the impact of denying hunting in these areas then I think there would be some merit to their position.

But in the absence of any studies, to make a capricious political decision I think is certainly not dignified to any degree of legislative perpetuity to be demonstrated by the committee.

Although there is a need in some cases to set aside park areas where no sport hunting or trapping can occur for visitor use and appreciation of unhunted wildlife populations, the current bill sets aside over 22 million acres of parklands where all sport hunting and trapping would be prohibited.

I might say for the edification of the body and with the quick perusal we have made of the Tsongas-Stevens-Jackson proposals, which I now hold in my hand——

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. GRAVEL. I yield myself 1 additional minute.

I might say that this adds an additional 2-million-plus acres that will go into additional parks and which would have a potentially adverse impact upon the wildlife in question.

This area we are talking about is an area the size of the State of Maine, an area that is the size of 10 Yellowstone National Parks.

Mr. President, I have laid down a broad outline of my amendment. I think I have made some serious charges about the management of wildlife put forth by the committee, and I would be interested in hearing why we must potentially do so much damage to the wildlife in question. Once we can hear the rationale from the proponents of this most unfortunate act, I would then deal with the human beings who may be adversely impacted by this action.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, is it the Chair's intent to allocate time as to who has the most time remaining?

The PRESIDING OFFICER. It is the Chair's intent to allocate time by who has time.

Mr. TSONGAS. Let me say that it would be our intent, speaking for the committee, to perhaps take at the most 10 minutes in rebuttal at the end of the discussion and, therefore, the committee would not request time at this point.

The PRESIDING OFFICER. If neither side yields time then time will be equally——

Mr. GRAVEL. Mr. President, I yield myself 2 minutes. I do not think I am being dilatory. I have made some serious charges here. I just said this committee is capriciously locking up land, denying hunting, bringing about an imbalance in the wildlife. Maybe the committee might want to set the record straight, and they have time to debate this. So if they do not want to debate it let them yield back the remainder of their time and I will go forward with mine. But they clearly want to be dilatory. I do not want to be dilatory.

I have made a charge. If they can respond to it in the time that is allotted to them I would like to hear the response. I think the committee is acting capriciously and politically. Everybody thinks, "Boy, we are saving Alaska, we are saving the animals in this area," but what I say is that, in fact, there is no study that refutes my argument. Altering the balance that these areas have had for many decades may well put the wildlife in jeopardy. I think that is a charge that should be responded to.

I cannot understand why my colleagues on the other side of the issue are reluctant. Maybe they are struck by the shame of their actions; maybe there is no reason for what is being done other than the avaricious desires of the no-growthers who feel that simple hunting is obviously a part of our growth ecological system.

So, Mr. President, I again would retire for a few moments and see if my colleagues are prepared to respond to these very strong charges against the actions of the committee and against their own actions. There have been no studies made on this. I want somebody to stand up here and tell me——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. GRAVEL. I hope my colleagues will respond to these charges.

The PRESIDING OFFICER. Time is yielded by whom?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Who controls the time in opposition to this amendment?

The PRESIDING OFFICER. The Senator from Washington (Mr. JACKSON).

Mr. JACKSON. In the meantime I have delegated that authority temporarily to Senator TSONGAS.

The PRESIDING OFFICER. Who yields time? If neither side yields time, then time will run equally against both sides.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. I have made every effort in these deliberations to not be dilatory. The managers of the bill were party to a time agreement and also were party to the exchange of amendments for consideration. Now because of shame or whatever reason, they have no response to a valid point made. I think the record is going to be very clear that their shame is so great and their actions are so terrible that there is no response to this. I think they ought to hold their heads low because I think they will go home and say that they did something to protect the wildlife of Alaska when, in fact, they could have done just the opposite. They could be altering these balances and doing great damage to the wildlife of Alaska without knowing it.

I see my distinguished colleague from Massachusetts, who is a very fair person, who is a very decent person, who has been gracious to me, rise now. He may obliterate this great shame that now exists because information has not come forward from his side of the aisle.

So I yield the floor to permit him this opportunity to straighten out the record so that we will all know if they are doing the right thing or doing the wrong thing.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Let me simply indicate that the committee response to the amendment is only going to take 5 or 10 minutes. It has been our preference to have that at the end of the discussion rather than at the beginning.

Let me say that yesterday the key words were "down and dirty" and "black day of the Senate." Today's key words are going to be "shame" and what is the other one?

Mr. GRAVEL. I will think of some others. [Laughter.]

Mr. TSONGAS. But our argument is concise and persuasive and I would rather do it at the end than at the beginning. If the Senator wants to use his time, we will simply make the rebuttal and we will be prepared to yield back the

remainder of our time. We have no need to take up the full hour.

Mr. GRAVEL. Mr. President, will my colleague yield?

Mr. TSONGAS. Yes.

Mr. GRAVEL. I would be happy to yield back the remainder of my time, too. There are only a few other points I am going to make. If there is no correction of the RECORD and you want it to stand that there has been no study made, that you have made some capricious, political decisions, and if it is only going to take you 10 minutes, then take your 10 minutes or whatever you think it takes to rebut this one point, but let us have a process here. This is supposed to be a debating society to illuminate issues, and I want to say that on your side of the aisle there has been very little illumination thus far.

Mr. TSONGAS. Mr. President, on whose time are we now talking?

The PRESIDING OFFICER. On the Senator from Massachusetts' time.

Mr. TSONGAS. If I am going to be eviscerated I would rather it be done on someone else's time than my own.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, let me go back to the logic of it again. They say they can respond to everything I am going to say, and I will use 3 minutes, Mr. President—they say they can respond to everything I am going to say in 10 minutes. That means they can probably respond to this first point in 2 minutes. Well, why do they not do that? Why do not these distinguished members of the Energy Committee, who have made the decision to not protect the animals up there tell us why they do not want to protect those animals in Alaska? Is that too much to ask?

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. TSONGAS. Several of my constituents often have made the same mistake in the last 2 weeks, I must say.

How much time remains to both sides?

The PRESIDING OFFICER. The Senator from Alaska has 43 minutes and 50 seconds; the Senator from Washington has 55 minutes and 25 seconds.

Mr. TSONGAS. Well, in pursuit of what I understood to be the recommendation of the Senator from Alaska, if he would yield back half an hour, I would be glad to yield back 40 minutes, then we would be down to 13 minutes and 15 minutes, which is about the same, and I think we could make our arguments.

Mr. GRAVEL. Mr. President, if my kind colleague, the distinguished Senator from Massachusetts, would permit me, is it not interesting that we sit here as two U.S. Senators in the most deliberative body on the face of the Earth and nitpick about whether or not we are given 20 minutes or give back time?

I have made some serious charges. If the Senator can respond to those charges of the terrible work that has been done by him and his committee, then do so. And then once that has been stated, if we do not need any more time we can turn it back, but do not stand there and tell me, "Well, let's give back our time."

This is not a game of shrinking time. We are trying to expostulate on issues so that we can understand what we are doing and so the American people can understand. So when the Senator goes back to Massachusetts and tells people that he worked hard on the Alaska lands bill to protect the wildlife, then he is not telling them the truth. Because the truth of the matter is he did nothing to protect the wildlife. What he did is he locked up some land, stopped hunting, and altered the balance. He does not know the consequences of what he has done and those consequences could be very severe for the wildlife. So take that back to Massachusetts.

If the Senator wants to respond to that, if he can do it in 2 minutes, do it in 2 minutes; if it takes him 10 minutes. do it in 10 minutes. He has the time.

Mr. TSONGAS. Mr. President, am I being attacked on my time?

The PRESIDING OFFICER (Mr. EXON). The Senator's time is being charged to the Senator who is speaking, it is the Chair's understanding, with the agreement of the Senator from Massachusetts.

Mr. TSONGAS. Well, I feel better about the attack, then.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself such time as I may use from the time allocated to myself and the Senator from Oregon (Mr. HATFIELD).

This is one of the areas that I wish that we would have had more support through the committee process. These are areas that I, too, tried to get excluded from the restrictions against hunting. I would support the amendments as being amendments that should be adopted.

I think the difficulty with the process is that these are amendments to the Senate committee bill. As I am sure the record will show, we have argued about these areas and tried to have them remain open to hunting. I do believe they should be open to hunting and I am, unfortunately, not in the position of being able to have these amendments voted on as amendments to the Tsongas substitute under the time agreement.

These are amendments to S. 9. I would hope, as I have conveyed to the committee, that the committee would accept the amendments to S. 9 and in the event the Tsongas substitute does not pass, they would be on S. 9 as it went to conference. I would think that would be the proper procedure, and I hope it is the procedure that is followed here in the Senate.

The PRESIDING OFFICER. Who yields time?

Time will run equally against both sides.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Alaska is recognized.

Mr. GRAVEL. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. When the distinguished senior Senator from Alaska spoke, did he speak on the time of the Senator from Massachusetts in opposition to my amendment or was there other time that was allotted to him in that regard?

The PRESIDING OFFICER. The senior Senator from Alaska spoke on his own time from the bill.

Mr. GRAVEL. Again, I have made some serious charges about wildlife management. This committee is in charge of this. Those charges have not been responded to by the Senator from Massachusetts. I see him diligently trying to do his homework because he is intently speaking to staff. Maybe it is not too late to change some minds. Maybe he will realize that a study was not done.

But I think that if this is going to be the way the opponents to the amendment or the proponents of the bill conduct themselves, then I think the case is made before the Senate that it is not I being dilatory, it is the distinguished Senator from Massachusetts and his cohorts who are being dilatory. They refuse to speak to the issue and in so refusing deny the American people the elucidation so necessary on legislation like this.

I certainly mean no disrespect to the Senator from Massachusetts. But for him to put himself up as a champion for something that affects entirely the State of Alaska and to sit there mute as to the consequences of his act, it leaves one to wonder about what truly is behind this. He cannot stand up and address this one simple little issue, that here we are denying hunting where hunting has gone on for decades, where a balance in the wildlife exists with the entire ecosystem. If he alters this through a capricious political act and sits there mute, then let him be indicted, because what truly is taking place here is the rape of Alaska, the locking up of Alaska.

And so never let him say on the stump in Massachusetts or anyplace else in the United States that he is saving Alaska. Let the word go forth that what he is doing is just locking it up and he does not know what he is doing and does not know the consequences of it.

So I can only stand here as a person who also was born and reared in Massachusetts and say that I will carry his shame, to some degree, on my shoulders and that when I go back to the home of my birth, it will have to be with that shame. I will try as best I can to explain his unfortunate shortcoming and his being the puppet, the unfortunate puppet, of the no-growthers in this Nation who, in their desire to deny the treasure of Alaska to this great Nation of ours, are willing to sacrifice the wildlife of Alaska, which is essentially what is being done.

Again, Mr. President, I ask the Senator—I implore the Senator from Massachusetts, I implore any Senator who is sitting here who can tell me any rationale that exists for doing this, for denying the historical hunting rights.

Let me ask my good friend from Massachusets, is that sufficient motivation to cause him to stand and defend himself a little?

Mr. TSONGAS. Mr. President, how much time remains at this point?

The PRESIDING OFFICER. The Senator from Alaska has 38 minutes, and

the Senator from Massachusetts has 54 minutes.

Mr. TSONGAS. I thank the Chair.

Let me just to my friend from Alaska, that I still intend only to take 5 or 10 minutes to make the rebuttal and still would prefer to do that at the end.

I would also say that, whenever the Senator desires to return to the State of his birth, I would be prepared to welcome him and do everything that is necessary to make him feel at home.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 38 seconds remaining—38 minutes.

Mr. GRAVEL. I thank the Chair. The Chair gave me a slight palpitation.

Mr. President, I yield myself 5 minutes. Since that point is unanswered, I would like to move to another point.

Mr. President, I know that the distinguished Senator from Massachusetts and the other members of the Energy Committee are people that are deeply concerned about employment, because they are experiencing in their States a fair amount of it.

So here we have a situation in these areas which the sportsmen of Alaska and the rest of the country feel is very critical. We have in these areas people who are employed, people who make their living. In fact, the week before last on a special order I recited a story about an individual who lost $10,000 because the Secretary of Interior did not have the milk of human kindness in his heart to permit this person to go through with a season of planned hunting activities. This person had contracted for some horses so that he could take a hunt in. He was denied the ability to do that. That person literally lost all of his net worth as a result of that capriciousness.

I want that kind of hardened, callous approach to really rest at the hands of the committee. What we are doing in this specific piece of legislation—and, of course, it is done at greater length throughout the bill—is telling trappers who live off the land, who try to render no harm to the balance of society, who want to live close to nature, "You cannot make your living here any more."

Maybe a person has spent 10 or 15 years of his life building his cabin and that is all he has, without water or electricity, a cabin that he built with his bare hands. Now you tell that person, "Get lost, Charlie. We do not really care."

You do not care. You can sit here and say, "I will respond to that," but I think the record will be clear that you do not care. These are human beings that you are doing great personal damage to.

We are not talking about somebody at the beginning of his life; we are talking about somebody in the full flower of his life, in his fifties, who will do what, when he has spent most of his life trapping?

Here we have a piece of legislation that is categorically designed to place people on the unemployment rolls, just in this small area.

So I make another charge to the committee. That is a charge of callousness, human callousness and lack of personal concern. Were this to happen in their State, they would be up in arms, outraged. But because it is happening far away, and the numbers are not great, no one cares. No one on this committee cares.

I would say to my distinguished colleague from Massachusetts, who is considered to be sensitive to people's needs, why did the committee not at least put in a grandfather clause? When we do other things in legislation, and I have been party to them, when we hurt people—like when we did something to the Redwood Forest in California—we put up the money to relocate the people, to bring about a new and different life. But did the committee have that degree of sensitivity? Of course not. There is no grandfather clause. There is no money put up. All we have is total callousness, like there are really no human beings involved.

Well, let the record speak to what the committee has done in that regard.

Now that I have made my second charge, the human element, I would hope that a Senator, any one of the Senators on the floor, could speak to that issue. Maybe the committee has done something that I have not spotted.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time? Time will run equally.

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

The PRESIDING OFFICER. On whose time?

Mr. GRAVEL. I ask unanimous consent that it be charged to the opponents of my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. There certainly is, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum and leave it to the imagination of the Chair as to how the time will be charged.

The PRESIDING OFFICER. Under that situation, the time would come from the Senator from Alaska.

Mr. GRAVEL. The precedent——

The PRESIDING OFFICER. Is the Senator from Alaska moving for a quorum call?

Mr. GRAVEL. Let me suggest the Chair is not imaginative enough. The precedent has been that it be shared on both sides, the time on the bill. If we cannot do that——

The PRESIDING OFFICER. As the Senator from Alaska knows full well, that can only be done by unanimous consent. The Chair posed the question. The Chair recognizes, properly, the objection by the Senator from Massachusetts.

Who yields time?

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum. There is not a quorum present. Under the precedents of the bill, that time is charged to both sides. If the Parliamentarian and the Chair are altering that precedent which has already been set, I think we should know that right now.

The PRESIDING OFFICER. The Chair will advise the Senator from Alaska that on page 652 it states:

Under a unanimous-consent agreement——

Mr. GRAVEL. Will the Chair indulge me until I get my book out? What page is the Chair referring to?

The PRESIDING OFFICER. 652. It is the bottom paragraph on 652.

Under a unanimous-consent agreement, placing a limitation on debate and providing for control of time, a quorum call is not in order prior to the expiration of the time allotted for the debate, or until yielded back unless the Senator calling for a quorum has sufficient time for such call to be charged against his time for debate, since the time for the quorum call will be charged against the time of the Senator calling for the quorum unless otherwise ordered by the Senate.

I think the precedent is quite clear.

Mr. GRAVEL. A parlimentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. Would it be in order to redistribute the time already allotted on the fill bill under the same clause? We could go back into the RECORD and find out who asked for the quorum calls for the past 2 weeks and properly apportion that time on the bill, which was under a unanimous-consent agreement also. I would ask the Chair to direct the clerk to make that investigation so that we could properly apportion the time that has already been obviously misapportioned on the bill.

The PRESIDING OFFICER. The Chair will advise the Senator from Alaska that in the opinion of the Chair the precedents are very clear. Time agreements have been entered into. The quorum call that was requested by the Senator from Alaska would be in order charged against his time or it would be in order under some other unanimous-consent agreement. Who yields time?

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. The Chair has not responded to my request. That request was that if this clause is applicable to my amendment, it is also applicable to the bill itself, which is under a unanimous-consent agreement. We, for the last 2 weeks, have been charging, and we have had rulings from the Chair—in fact, I made a motion on this very subject on yesterday—that the time would be allotted to both sides when a quorum is not present.

All of a sudden, the rules are being changed and when the lack of a quorum is noted, it is now to be charged only to one party. That is not the way we have been playing it up to this date. If we are going to change the rules now, I ask the Chair to direct the clerk to assess the RECORD and reapportion the time based upon who asked for the quorum calls for the last 2 weeks.

The PRESIDING OFFICER. The point that the Senator from Alaska may be overlooking is that each time, in re-

gard to the last 2 weeks, when a quorum call had been requested, it has been granted, under unanimous-consent agreement that the time be equally charged.

The Chair points out once again to the Senator from Alaska that his call for a quorum equally charged under unanimous consent would have been in order, but the Senator from Massachusetts objected to that. It is the ruling of the Chair, therefore, that if we are going to have a quorum call, the time must be properly charged to the Senator from Alaska.

Mr. GRAVEL. Let me say to the Parliamentarian and also, respectfully, to the Chair, that my memory may sometimes be faulty, but I do not think my memory is faulty here. I think there may have been an instance in the last 2 weeks that unanimous consent was not asked and that we probably did go forward and charge it to both sides. I therefore ask the Chair most respectfully to direct the clerk to make an investigation of the record of the past 2 weeks on this subject so he might report to the Senate that maybe something wrong has happened and that we are changing the rules, and that I might seek some remedy before this august body in the treatment of the time.

Am I in my rights as a Senator to ask the Chair to direct that an investigation be made on that, because my memory just does not coincide exactly with the Chair's? Of course, my memory may be faulty and I shall be prepared to apologize if my memory is faulty in that regard. But it will only take an examination of the record to find that out.

The PRESIDING OFFICER. It is the opinion of the Chair that the request by the Senator from Alaska is not in proper order. The Senator from Alaska does not have the right to direct or request the clerk to make an inquiry along the line that has just been outlined by the Senator from Alaska. Therefore, it is not a parliamentary inquiry in the normal sense.

Mr. GRAVEL. A parliamentary inquiry to the Chair.

I beg to differ with the Chair in that regard, because if we had performed that act, we have set precedent. Since the interpretation of the rules is based upon precedent, all I am asking is that we investigate to see what the precedent was. We only need to investigate the last 2 weeks. So I do not know if it truly is not within the right of a Senator to ask the Chair to ascertain the precedents of the Senate. Surely, that would seem to be a reasonable right.

The PRESIDING OFFICER. The Chair maintains the position that the request of the Senator from Alaska is not a parliamentary inquiry and therefore is not in order. The Chair cannot entertain the request made by the Senator from Alaska, unless it is put in the form of a unanimous-consent request.

Mr. GRAVEL. I thank the Presiding Officer for his patience and I really want to convey my respect.

I should like to make a point of order. That is on the ruling that the time can only be charged to one side in a debate and I would make an appeal from that ruling if it may be permitted. I ask for the yeas and nays on that appeal.

The PRESIDING OFFICER. Is the Senator from Alaska making the point of order that the time should not be charged to the Senator from Alaska under the quorum call that he has requested?

Mr. GRAVEL. That is exactly the ruling that I am asking for and I feel that the time should be charged to both sides in a quorum call, as it has been the practice up until now on the existing bill.

The PRESIDING OFFICER. In the opinion of the Chair, the point of order is not well taken.

Mr. GRAVEL. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? It is the opinion of the Chair that there is not a sufficient second.

Mr. GRAVEL. Mr. President, if there is not a sufficient second, there obviously is a lack of a quorum and as of yesterday's precedent, I suggest the absence of a quorum and ask that it not be charged to anybody.

Mr. JACKSON. I object.

Mr. GRAVEL. We had precedent yesterday, Mr. President.

The PRESIDING OFFICER. Under the precedent, the quorum call immediately preceding a rollcall is not charged to either side. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. A parliamentary inquiry, Mr. President.

Mr. GRAVEL. I object, Mr. President, the rollcall is in progress.

Mr. TSONGAS. The Senator from Massachusetts was on his feet.

Mr. GRAVEL. I object, Mr. President. A rollcall is in progress.

The PRESIDING OFFICER. The Chair will recognize the Senator from Massachusetts under due course.

Mr. TSONGAS. Mr. President, what is exactly the situation?

The PRESIDING OFFICER. The Chair reminds the Senator from Massachusetts that a quorum call is presently in progress and debate is not in order.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 18 Ex.]

Byrd, Robert C.	Gravel	Pell
Exon	Hollings	Riegle
Goldwater	Humphrey	Stevens
	Jackson	Tsongas

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. ROBERT C. BYRD. Mr. President. I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. 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 Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. McCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—89

Armstrong	Ford	Moynihan
Baker	Garn	Nelson
Baucus	Glenn	Nunn
Bayh	Gravel	Packwood
Bellmon	Hart	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Pressler
Boren	Hayakawa	Pryor
Boschwitz	Heflin	Randolph
Bradley	Heinz	Ribicoff
Bumpers	Helms	Riegle
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Huddleston	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Cannon	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Jepsen	Simpson
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stennis
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Danforth	Levin	Stewart
DeConcini	Lugar	Stone
Dole	Magnuson	Thurmond
Domenici	Mathias	Tower
Durenberger	Matsunaga	Tsongas
Durkin	Melcher	Warner
Eagleton	Metzenbaum	Williams
Exon	Mitchell	Young
	Morgan	Zorinsky

NAYS—3

Goldwater	Proxmire	Weicker

NOT VOTING—8

Church	Long	Talmadge
Javits	McClure	Wallop
Kennedy	McGovern	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Several Senators addressed the Chair.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I was seeking recognition and ask for the yeas and nays on this motion to table.

I did not even hear if a motion to table were made. I do not know what they are saying.

The PRESIDING OFFICER. There was a motion to table the motion to reconsider the vote. The Chair asked if there was objection to that. The Chair heard none.

Mr. GRAVEL. Mr. President, I must

say to the Chair with all due respect this was made by a Senator in the well whispering to the Chair, and I am standing right here with my ears open and I did not hear any process, except I heard, "table," actually the word "table" somewhere.

I hope the Chair will just properly recognize Senators who promptly speak up so other Senators will not lose their rights under the rules in question.

So I seek recognition now that we have established a quorum is present.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. I thank the Chair.

Now that we have a quorum, I wish to explain to a few of my colleagues what is taking place here.

I have offered an amendment as I indicated I would yesterday. Yesterday I also indicated that I would forgo the right to have the substitute amendment which we now have before us here because of the courtesies extended to me.

I offered my amendment and then I proceeded to debate my amendment and the members of the committee who manage the opposite side at the time sat mute, with really no desire to respond to the points I was making.

And the points I was making were two:

First, that my amendment seeks to open up some areas to hunting. These areas were closed down to hunting because the committee, in my mind, made a capricious and arbitrary decision. When I asked the committee in its deliberations if it had a study done by Interior to determine what the impact of stopping the hunting would be the committee did not call for a study to be done. Interior did not have a study done. So obviously there are those who say that we are protecting the wildlife when in fact we can be seriously damaging the wildlife was the first point I made which was not responded to.

The second point I made is that they are putting people out of jobs. If we put people out of jobs in Michigan, we break a leg to go out and put some money up for Chrysler. But because we are dealing with a small number of people who are put on the unemployment rolls, we are told, after they have spent their very lives building a log cabin and going out trapping, that now this is wiped out. We will send the Federal bureaucrats to burn their cabins to the ground and place these people on unemployment.

When it is in Michigan it means something in this body. But when it is in Alaska and the numbers are smaller, it apparently does not.

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

Mr. GRAVEL. I am happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I have to go to my office. But it is my intention to move to table the appeal. I do not want to do so until the Senator has completed his statement and I could not because he has the floor anyhow. I would rather not have to move to table.

I am not an advocate on one side or the other with respect to the bill. So I would move to table and I am sure with the understanding of the Senator that I do it reluctantly. I do not like to move to table anyone's appeals. But I hope the Senator will withdraw his appeal so that there will be no necessity for moving to table.

May I say that the Chair ruled that in the event there is a time agreement such as there is at the present time, any quorum call has to come out of someone's time unless the request for a quorum call is just prior to the taking of a vote. If time has expired and a rollcall vote is about to be taken, any Senator has the right under the Constitution and the precedents to suggest the absence of a quorum and, of course, there is no time to be charged against anyone; he has that right. But as long as there is time remaining on the matter no Senator in any time agreement we have ever had is allowed to suggest the absence of a quorum without that time being charged against someone's time or equally, and all the Chair is doing here is upholding the ruling.

Mr. GRAVEL. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRAVEL. If I might state on my time and not on the leader's time, we were operating under a precedent of comity where proponents had considerably more time than the opponents in this particular case. All I was asking was that we charge the time to both sides, and the Chair has ruled based upon interpretation of the rule on page 652, which I disagreed with.

I think comity of the Senate would require that we charge the time equally to both sides, since this is a debating organization that prides itself on this and the exhumation of information. The tactic being employed by the managers of the bill in just trying to bleed time out without illuminating the Senate is dilatory tactic.

So, in that regard, I can only take recourse to dilatory tactics myself, and I think they are uncomfortable tactics.

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

Mr. GRAVEL. I am happy to yield to the majority leader on his time.

Mr. ROBERT C. BYRD. I do not have any time.

Mr. GRAVEL. I say I think the majority leader has sufficient consideration in this body. I am the first to join in that group, and if he would ask unanimous consent for a moment for himself he would properly enjoy it. I do not do this out of disrespect for the leader. My problem is I have such little time remaining that I cannot permit deliberations taking place on my time.

Mr. ROBERT C. BYRD. Mr. President, does the Senator yield the floor so I may yield such time?

Mr. GRAVEL. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield myself such time as I may require under time under Mr. JACKSON'S control.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I only wish to get rid of the appeal. That is my interest at this point.

The Chair is correct that in light of all precedents of the Senate, always when we have a time agreement if a Senator, let it be this Senator, if I wish to have a quorum call, I have to get someone to yield me time who is controlling time. I have to get someone who is controlling time to yield me time for that quorum. Or I have to get unanimous consent that the time not be charged for the quorum against anyone, or that it be charged equally. That is the way we operate under a time agreement. Otherwise, it would blow the time agreements out of the water. They would be worth very little.

Now once all time is yielded back or utilized on a matter, then the Senator has the right under the Constitution to ask for a quorum or suggest the absence of a quorum before a rollcall vote, and he does not have to ask anyone time because the time has expired. He has that constitutional right.

But at this point Senators have time. The Senator himself has time. So if he asks unanimous consent that a quorum call not be charged to anyone and there is no objection, that is fine. But if there is an objection, then if there is a quorum suggested, it has to come out of someone's time. That is what the Chair was maintaining, that as long as there is time remaining someone has to yield time unless by unanimous consent it is agreed that the time not be charged, or that it be charged equally.

As I say, once all time is used then such a request is moot. If there is a suggestion of an absence of a quorum, the Chair has to proceed with it before a rollcall vote.

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

Mr. ROBERT C. BYRD. Yes.

Mr. CANNON. I find some difficulty with that. In reading rule VI of the Standing Rules of the Senate, it says:

> 3. If at any time during the daily sessions of the Senate a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

I would like to inquire then as to how a Senator who has no time on the bill or an amendment, for example, myself, under that rule where there is a very clear statement that I am entitled, if I raise the question of a quorum being present, to raise that question, unless we are changing the rules by unanimous consent, and I do not think we can change the rules by unanimous consent.

We have gone up and down the hill on that issue. So I would like to inquire from the majority leader as to how I or some other Senator, who has no time on the issue in question, can raise the question of whether or not a quorum is present.

For example, right now it is obvious—I can count, and I can count nine Senators in the hall, so it is obvious—that a quorum is not present. I might desire to raise that question. But if I have no time on the amendment I certainly cannot get from the manager of the bill in opposition or the manager in support or vice

versa any time to raise the question of a quorum being present.

Mr. ROBERT C. BYRD. The Senator is correct. This has been true from the very beginning of the utilization of time agreements. Any time the Senate is operating on any bill or other measure under a time agreement, and any request for a quorum call is made it must either be done by unanimous consent without the time being charged to anybody or somebody has to yield time for that quorum call, unless all time has expired on the matter and the vote is about to occur, in which instance any Senator may suggest the absence of a quorum. So this is nothing new. This is the situation that always obtains under time agreements.

Mr. CANNON. If I may question the majority leader further then, Mr. President——

Mr. ROBERT C. BYRD. Yes.

Mr. CANNON. Does that mean that when there is a time agreement a Senator who has no time cannot, can never under the rules, raise the question of the absence of a quorum?

Mr. ROBERT C. BYRD. He can at the time the vote is about to occur and all time has been used. Let us say the vote is about to occur on the amendment. When all time is used on the amendment or has been yielded back any Senator may, under the Constitution and under the rules and precedents, suggest the absence of a quorum prior to the taking of that vote. Even if the vote is set for a given hour, the vote is set for, let us say, 1 o'clock, all time has expired any Senator may suggest the absence of a quorum before that vote occurs and before the quorum call will be called.

But so long as there is time remaining on that amendment, no Senator may, without unanimous consent, suggest the absence of a quorum without someone's yielding time for that purpose. That has been our practice as long as I have been in the Senate, now 22 years.

Mr. CANNON. I would just like to make one statement then in response to that. The Senator and I came here at the same time, and I must say that I am familiar with the general rule. If there is time the Presiding Officer generally calls "On whose time" if someone suggests the absence of a quorum. But I think if you look at the situation I am suggesting we are trying to change rule VI without going through the proper procedures to change the rules of the Senate where a person who has no time at all on a particular issue, if you read rule VI, he is entitled to raise the question of the absence of a quorum, and if you apply the so-called unanimous-consent agreement to that you are precluding that type of situation.

I am not objecting to the general rule type of provision, but I may say I will find it much harder to agree to unanimous-consent agreements in the future if this means that no one, except those who have time on the bill either for or against a particular proposition can raise the question of the absence of a quorum, and I think that is a clear departure from rule VI itself.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Nevada has served as chairman of the Rules Committee for a good number of years before taking over the chairmanship of the Commerce Committee, and I respect his viewpoint. I am thoroughly familiar with rule VI. But a unanimous-consent agreement, Mr. President, by the order of the Senate, contravenes the Rules of Senate that might otherwise obtain and limits the time for debate. Otherwise there is no limitation of debate. That is the purpose of a time agreement, to limit the time for debate. So once that unanicous-consent agreement is obtained there goes out the window that rule about unlimited debate.

Also unanimous-consent agreements, if agreed to in the usual form, provide that no nongermane amendment can be offered. There goes another rule out the window because without unanimous-consent agreements there is no rule of germaneness in the Senate, and Senators can offer nongermane amendments.

But once a time agreement is entered into, time is limited, and if the agreement is in the usual form germane amendments are in order, but nongermane amendments are not in order.

Furthermore, there are Senators who control the time, and they can yield from their time on any amendment or motion, and unless a Senator gets time from one of the Senators in control he cannot even speak unless he offers an amendment and gets himself some time on that amendment. He may withdraw it later or make a motion of some kind, and time on motions has been provided for in the agreement. But unless he resorts to some action of that kind he cannot even speak. He has to get from this Senator or that Senator, the managers in control of the time, time on which to speak. If he suggests absence of a quorum, until all time has expired, he cannot even suggest the absence of a quorum unless someone gives him time or unless by unanimous consent of the Senate the time will not be charged.

Now, the distinguished Senator from Nevada has many times sat in this chair as manager of a bill. He has yielded time under time agreements, and he has known, and he knows today, I say most respectfully, that in those situations where there are time agreements that Senators cannot suggest the absence of a quorum without his yielding time or the manager on the other side yielding time or the Senate gives its consent that the time will not be charged.

That is what the Chair has done today. The Chair has simply ruled, in accordance with all of the precedents of the Senate heretofore, and in accordance with logic, because if it were not so time agreements would really be worthless as Senators could come in at any time where there was a time agreement, and say, "I suggest the absence of a quorum," and it would not be charged against anybody, and that would enable a filibuster even under a time agreement.

So I do not care to argue the case further. I simply wanted to state that I hope the Senator would withdraw his appeal. If he does not withdraw it I will respectfully move to table in order to get the matter behind us.

Mr. TSONGAS addressed the Chair.

Mr. ROBERT C. BYRD. I do not yield the floor as yet.

Mr. GRAVEL. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GRAVEL. I think the majority leader has given an unusual dissertation of the rules in this regard.

I do share the same view as the Senator from Nevada, and I think many other Senators probably would.

Many times we enter into time agreements in good faith because we want to accommodate the difficult task of the leadership, which is to get the flow of activities going. It is a thankless task that the Senator from West Virginia has.

But I think we are struck when the point is raised by this anomaly that the time agreements can be entered into when Senators who are not here are not parties to it, and it is impossible for all Senators to be here all the time to suffer the dialog of time agreements, and so automatically, because of this process of effecting the flow of business or the exigencies of that requirement, we disenfranchise ourselves from the full flower of our prerogatives.

And I can understand from the majority leader's side why that is necessary. But, from the Members' side, I think that that not-thought-of effect—and I had not thought of it until now and, quite obviously, the distinguished Senator from Nevada (Mr. CANNON), who has been the chairman of the Rules Committee for some time, had not thought of it, either.

So I feel for that reason I would press my appeal and for another reason, Mr. President, which is that we entered into an agreement in February. I entered into it in good faith and I have made every attempt to stay within that agreement. But I must say that the debate that I witnessed today on my amendment is not in keeping with the faith that was put forth in agreeing to the time agreement.

When one agrees to a time agreement, one submits to what he suspects to be a reasonable debate during that constrained time. And if the claim is to be made of dilatoriness, whatever color it is, then one should know that.

So I have been put on notice by the actions of the managers of this legislation that the game is dilatoriness and so I can only respond in kind, and I do it with great chagrin. I will do it without discommoding or trying to discommode Members and the leader as minimally as possible and certainly staying within the narrow constraints of this legislation.

I indicate my desires to do that because of my good will and the fairness that the leader has shown thus far and throughout these deliberations and what he continues to show.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

May I say that I hope that there would

be no dilatoriness on the part of any Senator. I have not seen any dilatoriness up to this point.

If the Senator from Alaska is saying that Senators on the opposite side of his amendment, those who oppose his amendment are not debating it, I hope they would debate his amendment. There is time on both sides and I hope they would.

But I, of course, cannot dictate to any Senator as to whether he ought to stand up and speak or whether he should sit down. I hope there would be that free-flow debate.

If that is what the Senator is concerned about, I hope the Senators who oppose his amendment would oblige him and utilize time in doing that.

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

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. TSONGAS. Mr. President, the argument has been made twice that we are engaged in dilatory tactics. I would like the RECORD to at least reflect the truth, which I hope will not set a precedent on this bill.

First of all, I indicated, even though the opposition had an hour, that we did not intend to use up the hour. I have five points I wish to make in response to the amendment. It will take me 10 minutes.

It is my desire to have my 10 minutes as close to the end as possible. Otherwise, I am in a position where I have to say the same thing six times. I would find that displeasing and I suspect my colleagues would feel the same way.

I offered, since I am only going to use up 10 minutes, to yield back 40 minutes of my time, which is hardly a dilatory tactic—if it is, I better go back to school—in exchange for the Senator yielding back 30 minutes, at which point we would both have 15 minutes and we could make our closing arguments. That was not agreed to.

So I was prepared and I made the offer that 1 hour and 10 minutes of the Senator's time would be yielded back. It was not agreed to. And I am dilatory?

I have five arguments to make against the amendment. I will make it at what I feel to be at the end of the debate. Otherwise, I am in the position of having to repeat it. That is in no one's interest.

But to suggest that somehow speaking for 10 minutes rather than 60 is dilatory is a strange definition of the term "dilatory."

I would also point out to my colleagues to go back and read the RECORD from yesterday when I suggested we were going to end up doing this. No one believed me. Maybe they will as the day wears on.

Mr. GRAVEL addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have someone waiting in my office. I need to go to my office.

I would like to dispose of the appeal. I hope the Senator would withdraw it. Would he be willing to vote by a voice vote?

Mr. GRAVEL. Mr. President, I apologize for imposing upon the leader's time and his guests.

I would only say, on the basis of argument and in appealing to the sense of fairness of the leader, that the tactic here is—what is going on, I have had several Senators tell me that they have been asked by the sportsmen's organizations that are very interested in this legislation and that they would have a perfecting amendment. I do not know of more than two or three Senators, at most, that would do that.

In their exercising that right, I do not think that would be undue delay. But what is afoot here by the managers of the bill is an attempt to let the time bleed out on my side and then they would have their time. They would then bleed out their time, and they would move to table, which would preclude the proposal of any perfecting amendment.

Mr. ROBERT C. BYRD. Will the Senator allow me to interpolate right there?

Mr. GRAVEL. Yes.

Mr. ROBERT C. BYRD. I heard the Senator from Washington (Mr. JACKSON) on yesterday say he would be glad to yield time to the Senator from Alaska, Mr. GRAVEL. I have heard that willingness expressed on the part of at least that Senator to yield time to the Senator. Because on yesterday, as I understood the Senator from Alaska, the Senator from Alaska was desirous of additional time on the amendment. So much for that.

Mr. GRAVEL. Mr. President, let me say to the leader that if that is the case, I ask unanimous consent that at least four Senators be permitted perfecting amendments to my amendment if they choose to exercise that right. Just four. Those are just the people that have talked with me and they cannot get a chance to do that.

Mr. ROBERT C. BYRD. Would that be in accordance with the agreement that was entered into?

Mr. GRAVEL. Yes; very much so. The agreement of February 7 permits unlimited numbers. I am not asking for unlimited numbers. I am asking unanimous consent that four Senators may be able to come forward and offer second degree amendments without having the requirement that the time expire on the first degree amendment.

Mr. ROBERT C. BYRD. Mr. President, I do not mean to shut off the Senator. As I have indicated from the beginning, I am only interested in this particular appeal at the moment. Inasmuch as I am not an advocate on either side of this matter, I just want the Senate to work its will as soon as possible. I may vote against the bill or I may vote for it.

Being a neutral in this current situation, I move to table the appeal.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD). 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 Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote who have not done so?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—91

Armstrong	Garn	Nunn
Baker	Glenn	Packwood
Baucus	Goldwater	Pell
Bayh	Gravel	Percy
Bellmon	Hart	Pressler
Bentsen	Hatch	Proxmire
Biden	Hatfield	Pryor
Boren	Hayakawa	Randolph
Boschwitz	Heflin	Ribicoff
Bradley	Heinz	Riegle
Bumpers	Helms	Roth
Burdick	Hollings	Sarbanes
Byrd, Harry F., Jr.	Huddleston	Sasser
Byrd, Robert C.	Humphrey	Schmitt
Cannon	Inouye	Schweiker
Chafee	Jackson	Simpson
Chiles	Jepsen	Stafford
Cochran	Johnston	Stennis
Cohen	Kassebaum	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stewart
Danforth	Levin	Stone
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	Mathias	Tsongas
Durenberger	Matsunaga	Warner
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Exon	Mitchell	Young
Ford	Morgan	Zorinsky
	Nelson	

NOT VOTING—9

Church	Long	Moynihan
Javits	McClure	Talmadge
Kennedy	McGovern	Wallop

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

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

Mr. GRAVEL. Mr. President, having voted in the affirmative, I move to reconsider the vote by which the motion was laid on the table. I ask for the yeas and nays.

Mr. President, I have recognition. I moved to reconsider. I asked for the yeas and nays on my reconsideration motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. If there is not a sufficient second, there is obviously not a quorum present. Therefore, I suggest the absence of a quorum and, under prior precedent, that call will not be charged to this Senator.

The PRESIDING OFFICER. The Chair states to the Senator that a denial of the yeas and nays does not reflect on whether or not a quorum is present. The

question is on agreeing to the motion to reconsider.

Mr. GRAVEL. I raise the point of order and appeal the ruling of the Chair and ask for the yeas and nays on my appeal.

The PRESIDING OFFICER. The Chair has not determined what is the nature of the Senator s appeal.

Mr. GRAVEL. The Chair has ruled that the quorum call is not in order at this time.

The PRESIDING OFFICER. The Chair did not rule so.

Mr. GRAVEL. I apologize to the Chair, then. I was being presumptive.

I asked the Chair about denial or the lack of a second being apparent, empirical evidence of the lack of a quorum; then I suggested the absence of a quorum.Under the precedent made, just a few moments ago and yesterday's precedent, that quorum would not be charged to any Member.

The PRESIDING OFFICER. The Senator is correct.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object——

The PRESIDING OFFICER. The Senator may not reserve the right to object, since debate is not in order during a rollcall.

Is there objection?

Mr. GRAVEL. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued and concluded the call of the roll, and the following Senators answered to their names:

[Quorum No. 19 Leg.]

Baker	Durkin	Mathias
Baucus	Ford	Metzenbaum
Bayh	Goldwater	Nunn
Biden	Gravel	Pell
Boschwitz	Hatch	Ribicoff
Bradley	Hatfield	Stevens
Bumpers	Inouye	Tsongas
Byrd, Robert C.	Jackson	Warner
Culver	Jepsen	
DeConcini	Levin	

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to direct the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on the instruction of the Sergeant at Arms.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to direct the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. (Mr. BOREN). Is there any other Senator who desires to vote?

The result was announced—yeas 87, nays 3, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—87

Armstrong	Garn	Nunn
Baker	Glenn	Packwood
Baucus	Gravel	Pell
Bayh	Hart	Percy
Bellmon	Hatch	Pressler
Bentsen	Hatfield	Pryor
Biden	Hayakawa	Randolph
Boren	Heflin	Ribicoff
Bradley	Heinz	Riegle
Bumpers	Helms	Roth
Burdick	Hollings	Sarbanes
Byrd, Harry F., Jr.	Huddleston	Sasser
Byrd, Robert C.	Humphrey	Schmitt
Cannon	Inouye	Schweiker
Chafee	Jackson	Simpson
Chiles	Jepsen	Stafford
Cochran	Johnston	Stennis
Cohen	Kassebaum	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stewart
Danforth	Levin	Stone
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	Mathias	Tsongas
Durenberger	Matsunaga	Warner
Durkin	Melcher	Williams
Eagleton	Metzenbaum	Young
Exon	Mitchell	Zorinsky
Ford	Morgan	
	Nelson	

NAYS—3

Goldwater	Proxmire	Weicker

NOT VOTING—10

Boschwitz	Long	Talmadge
Church	McClure	Wallop
Javits	McGovern	
Kennedy	Moynihan	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. GRAVEL. Mr. President, I move to table the reconsideration and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second on the motion to table?

Is there a sufficient second?

Senators, please raise your hands so the Chair can see.

There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAVEL. Mr. President, I object.

The PRESIDING OFFICER. The order for the quorum had been rescinded prior to the objection.

The motion recurs on the motion to table the motion to reconsider.

Mr. GRAVEL. The question is on the motion to table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. METZENBAUM. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Mr. President, a quorum call is not in order at this point. There has been no intervening business.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, the rule is very clear, that before a vote we can ask for a quorum.

Mr. METZENBAUM. The Senator from Alaska has had his quorum call.

Mr. GRAVEL. Mr. President, a quorum was not established.

The PRESIDING OFFICER. The Senator from Ohio is correct, there had been no intervening business. The quorum call was made and the question would then recur on the motion to reconsider the motion to table.

Mr. GRAVEL. Mr. President——

Mr. MELCHER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MELCHER. Mr. President, my interest is not in prolonging this, but my interest is whether or not we are setting a different precedent than had been set before. A quorum was not established, and the yeas and nays were asked for. Even though they were asked for a second time since a quorum was not established, a call for a quorum is still in order. My parliamentary inquiry is: Is that not correct?

The PRESIDING OFFICER. The Senator is not correct because the proceedings under the quorum call were dispensed with by unanimous consent, objection not having been made. The question now is on the motion to table the motion to reconsider.

Mr. MELCHER. Mr. President, I think we might be getting into a precedent we do not want to establish. The request for a quorum does not fall aside because there was no intervening business.

The PRESIDING OFFICER. The call for the quorum was entered and then

the quorum call dispensed with by unanimous consent.

Mr. MELCHER. And a new request for a quorum was made.

The PRESIDING OFFICER. There had been no intervening business after the request for the quorum.

Mr. GRAVEL. Mr. President, I raise a point of order. A timely request was made and, therefore, I appeal the ruling of the Chair and ask for the yeas and nays on the appeal.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

Mr. METZENBAUM. Mr. President, a point of order.

Mr. TSONGAS. Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Alaska will state his point of order.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum. I made a point of order. The point of order is being appealed. I requested the yeas and nays. We are about to have a vote and I am entitled to have a quorum call prior to a vote. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator appeals the ruling of the Chair which constitutes intervening business. Therefore, the clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names.

[Quorum No. 20 Leg.]

Baker	Hatfield	Riegle
Baucus	Helms	Sarbanes
Boren	Hollings	Thurmond
Dole	Humphrey	Tsongas
Durkin	Jackson	Warner
Gravel	Melcher	
Hart	Metzenbaum	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. JACKSON. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 86, nays 5, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—86

Armstrong	Ford	Nelson
Baker	Glenn	Nunn
Baucus	Gravel	Packwood
Bayh	Hart	Pell
Bellmon	Hatch	Percy
Bentsen	Hatfield	Pressler
Biden	Heflin	Pryor
Boren	Heinz	Randolph
Boschwitz	Helms	Ribicoff
Bradley	Hollings	Riegle
Bumpers	Huddleston	Roth
Burdick	Humphrey	Sarbanes
Byrd, Harry F., Jr.	Inouye	Sasser
	Jackson	Schmitt
Cannon	Jepsen	Schweiker
Chafee	Johnston	Simpson
Chiles	Kassebaum	Stafford
Cochran	Laxalt	Stennis
Cohen	Leahy	Stevens
Cranston	Levin	Stevenson
Culver	Lugar	Stewart
Danforth	Magnuson	Stone
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McGovern	Tsongas
Durenberger	Melcher	Warner
Durkin	Metzenbaum	Williams
Eagleton	Mitchell	Young
Exon	Morgan	Zorinsky

NAYS—5

Garn	Hayakawa	Weicker
Goldwater	Proxmire	

NOT VOTING—9

Byrd, Robert C.	Kennedy	Moynihan
Church	Long	Talmadge
Javits	McClure	Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Chair states that it has carefully reconsidered its ruling on the point of order raised by the Senator from Ohio. The Chair will correct its ruling to rule that the point of order was well taken, that a quorum had not been established.

So that the Chair will be clearly understood, the ruling is based upon a precedent which is not directly in point but which the Chair believes is analogous, and which was established on May 29, 1908, appearing at page 7181 of the CONGRESSIONAL RECORD of that date.

The Chair stated—and I quote from page 642, "Senate Procedure":

> A quorum having been announced, the suggestion of the absence thereof is not in order until there has been some transaction of business.

In this case, a quorum had not been announced, as the call for the quorum had been dispensed with prior to the ascertaining of a quorum being present.

So that the Chair rules that the point of order was well taken, since a quorum had not been ascertained and a quorum had not been announced. Had a quorum been announced, the second call for the quorum would not have been in order.

Mr. GRAVEL. Mr. President, I wish to thank——

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I will be happy to yield to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise to ask a parliamentary question. I believe I know the answer——

Mr. GRAVEL. Mr. President, I ask unanimous consent that I not yield on my time.

Mr. GOLDWATER. I do not care what time you yield on. I want to ask a parliamentary inquiry.

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

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I think I know the answer, but maybe there is something in the precedents that would allow this.

We are trying to hold an Intelligence meeting on one of the most important subjects we have had all year, and we cannot hold that meeting with this kind of stuff going on.

What I ask is this: Is it possible that members of the Intelligence Committee could attend the meeting I am referring to and not have a missed vote charged against them?

Mr. GRAVEL. Mr. President, a parliamentary inquiry. I hope that is not charged to my time.

The PRESIDING OFFICER. The time is not being charged.

Mr. GRAVEL. I thank the Chair.

The PRESIDING OFFICER. The Chair is obliged to inform the Senator from Arizona that a Senator would have to be present in the Chamber for his name to be listed as present and recorded as voting when the roll is called.

Mr. GOLDWATER. I thought that would be the answer. I thought there might be an exception, in view——

The PRESIDING OFFICER. Under rule XII, paragraph 1, even a motion to suspend this rule would not be in order, and the Presiding Officer is not allowed, under that rule, to entertain any request to suspend it by unanimous consent.

Mr. GOLDWATER. I ask unanimous consent that the members of the Intelligence Committee be allowed to conduct this most important meeting without having a missed rollcall charged against them.

The PRESIDING OFFICER. Will the Senator clarify his request? Is the Senator asking that the rollcall indicate that the Members are present?

Mr. GOLDWATER. That is correct.

The PRESIDING OFFICER. That would be included under the rule. Under rule XII, paragraph 1, which the Chair has read, the Chair could not entertain that request.

Mr. GOLDWATER. Even under a unanimous-consent request?

The PRESIDING OFFICER. Even under a unanimous-consent request. The rule specifically says:

> No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

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

Mr. GOLDWATER. I yield.

Mr. HATFIELD. I suggest that if we could keep 51 Members in the Chamber for the next few minutes to see what the next move of the Senator from Alaska is, we might avoid at least a quorum call and get down to something substantive and find out exactly where we are for the remainder of the afternoon. But when we have such quorum calls and everyone disappears, it is very legitimate to put in another quorum call. However, if we could hold 51 Members here for just a little while, to see what the next move is, we might be able to give the Senator from Arizona a better understanding of what is going to happen for the remainder of the afternoon.

Mr. GOLDWATER. I thank the Senator.

I merely want to say—and I know what the answer is going to be—that we are going out of business tomorrow. I do not know when this important business of America is going to be taken care of. I cannot disclose it, but we are all going to be mighty sorry that we engaged in this horseplay all afternoon and not the business of America.

Mr. HATFIELD. I agree with the Senator from Arizona.

(Applause in the galleries.)

The PRESIDING OFFICER. The galleries will be in order.

Mr. TSONGAS and Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I am very sympathetic to the Senator from Arizona. I fully understand that, and I am sure he is doing important business up there. I felt that we were about to do some important business today, but the committee refused to debate the process and merely wanted to bleed out the time in a very dilatory fashion. So they initiated the dilatory approach, and we are just having more of that.

I believe it is important for the defense of this country that we get as much American oil and gas as possible. I believe it is also important to the defense of this country that we not be dependent upon South Africa and we not be dependent upon the Soviet Union for vital minerals, minerals that exist in Alaska and minerals that are locked up by this legislation.

So I say to my colleague that I do not know the important business that the Committee on Intelligence has taken up today, but I do know the important business of this body, and that important business is to make a judgment as to whether or not the Senate will pass a law locking up more than 50 million acres of sedimentary basin.

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

Mr. GRAVEL. Not on my time.

Mr. GOLDWATER. Then, why do you not let us get the job done? You can parliamentary this thing all over the lot. We know you can do it.

Mr. GRAVEL. Mr. President, I am very persuaded by the Senator from Arizona; and it is because of his powers of persuasion upon me that I now make a point of order on the ruling of the Chair and appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Which point of order?

Mr. GRAVEL. The point of order the Chair made with respect to the Senator from Arizona, wherein the Senator from Arizona made a unanimous-consent request that the Intelligence Committee could meet and still have their votes counted as if they were here. I am persuaded that the Senator from Arizona has made a fine argument.

I know that there are many secret things they are doing that they have to get done today. I hesitate to call for a secret session to go into that; but, absent that, I merely ask for an appeal from the ruling of the Chair.

The PRESIDING OFFICER. The Chair will have to rule on the point of order first. The Chair rules——

Mr. GOLDWATER. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Arizona has withdrawn it.

Mr. GRAVEL. A ruling on a point of order is not debatable. The Chair can rule on the point of order.

The PRESIDING OFFICER. The Senator from Arizona stated a parliamentary inquiry rather than raising a point of order, so he has not stated a point of order, and the inquiry has been answered.

Mr. GRAVEL. Mr. President, I might say to the Presiding Officer most respectfully I know the Senator from Arizona would not make a point of order. The Senator from Alaska made the point of order.

The PRESIDING OFFICER. The Senator from Alaska now makes the point of order.

Mr. GRAVEL. I make the point of order that the Chair ruled in error on the rights of the Senator from Arizona in his unanimous-consent request.

The PRESIDING OFFICER. The Chair has made no ruling.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair has merely answered an inquiry.

Mr. GRAVEL. The Chair ruled.

Mr. TSONGAS addressed the Chair.

Mr. GRAVEL. I ask the clerk to reread—if I have the floor. I am addressing the Chair.

Mr. JACKSON. Let us have order.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. As I understood it, I heard the Senator ask for unanimous consent and the unanimous consent was ruled out of order. I make a point of order of that action.

Mr. JACKSON. He has withdrawn that.

Mr. HATFIELD. Mr. President, a point of order.

Mr. JACKSON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. The Senator from Arizona withdrew the unanimous-consent request. Am I not correct?

Mr. GRAVEL. Mr. President, it was withdrawn after the Chair ruled that the unanimous-consent was out of order.

The PRESIDING OFFICER. The Chair will state that it was an inquiry request which was withdrawn and the Chair never entered a formal ruling upon it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska retains the floor.

Mr. GRAVEL. Mr. President, I make the point of order on the information that was given to the Senator.

The PRESIDING OFFICER. The Senator may not make a point of order unless the Chair has entered a ruling. The Chair has not entered a ruling.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Intelligence Committee be permitted to meet during the deliberations and that their absence in the course of rollcalls not be counted on the RECORD.

The PRESIDING OFFICER. The Chair will rule that request is out of order under rule XII.

Mr. GRAVEL. Mr. President, I make a point of order of the Chair's ruling and appeal it and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BUMPERS addressed the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. GRAVEL. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators.

Mr. HATFIELD. The Senator is out of order.

The PRESIDING OFFICER (Mr. BAUCUS). Will the Senator please repeat his request?

Mr. GRAVEL. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

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

Mr. GRAVEL. Mr. President, I ask unanimous consent—I have two remaining amendments, major amendments——

The PRESIDING OFFICER. A quorum call is presently in progress and debate is out of order. The pending question is on agreeing to the motion to instruct the Sergeant at Arms to compel the attendance of absent Senators. (Putting the question.)

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion of the Senator from Alaska. (Putting the question.)

The motion of the Senator from Alaska was rejected.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The legislative clerk continued the call of the roll.

After some delay, the following Senators entered the Chamber and answered to their names:

[Quorum No. 21 Leg.]

Armstrong	Garn	Nelson
Baker	Glenn	Nunn
Baucus	Goldwater	Packwood
Bayh	Gravel	Pell
Bellmon	Hart	Percy
Bentsen	Hatch	Pressler
Biden	Hatfield	Proxmire
Boren	Hayakawa	Pryor
Boschwitz	Heflin	Randolph
Bradley	Heinz	Ribicoff
Bumpers	Helms	Riegle
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Huddleston	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Cannon	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Jepsen	Simpson
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stennis
Cranston	Laxalt	S evens
Culver	Leahy	Stevenson
Danforth	Levin	Stewart
DeConcini	Lugar	Stone
Dole	Magnuson	Thurmond
Domenici	Mathias	Tower
Durenberger	Matsunaga	Tsongas
Durkin	McGovern	Warner
Eagleton	Melcher	Weicker
Exon	Metzenbaum	Williams
Ford	Mitchell	Young
	Morgan	Zorinsky

The PRESIDING OFFICER (Mr. BOREN). A quorum is present.

The question recurs on the appeal of the ruling of the Chair.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The question occurs on the appeal of the ruling of the Chair.

Mr. GRAVEL. Mr. President, I will not be very long. I would like to say that I have had trouble getting the yeas and nays. I am concerned about that. That is not a normal practice around here, particularly on something like this, when one is fighting for his State's rights.

Mr. President, I ask unanimous consent at this point in time—I only have two major amendments that I negotiated under a time agreement back in February. It appears, from my point of view, that that time agreement is not being kept faith with because of devices to be employed to stop second-degree amendments. I do not think that that is a part of the agreement, because at that time—and I have never indicated and I was prepared to limit the number of second-degree amendments I was prepared to offer.

So, at this point in time, so this record is abundantly clear as to what is going on, I asked unanimous consent that I have the yeas and nays, if on no other subject before this body, at least on my two amendments that remain.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will object to the request of any Senator that the yeas and nays be ordered by unanimous consent. I think the yeas and nays should be ordered in accordance with the mode set forth under the rules.

I will be happy to work with the Senator in attempting to get a vote on his amendments and a vote by yeas and nays. I am simply saying that I would have to object to the Senator's request that the yeas and nays be ordered on any amendment or any motion.

If the Senator would withdraw that request——

Mr. GRAVEL. Mr. President, I accept the objection and feel deeply chagrined about it, because normally I have always given the yeas and nays requested when I was sitting in this Chamber, regardless of whether I opposed totally the person on the other side of the issue.

So we have a little bit of a cabal here where the Senator is denied the yeas and nays when requested. That is a little bit of comity that has been accepted around here. I have seen it violated several times and I just see things changing a little bit. That is why I was going to change things a little bit and will continue to try to change things a little bit.

Mr. ROBERT C. BYRD. If the Senator would allow me, I do not think the Senate will deny him the yeas and nays on his amendments. I do not think they will do that. I think what the Senate is doing now is denying yeas and nays on what are obviously dilatory tactics, and I say that with respect to the Senator.

But when it comes to ordering the yeas and nays on his amendments I, for one, will do everything I can to help get him the yeas and nays on the amendments.

Mr. GRAVEL. I thank my colleague, because I was personally distressed over what I took as a lack of comity. As I said, I have never denied anybody the yeas and nays and never would as long as I will be in this body. Because I think that is a basic right that you can have an up-or-down vote, rather than get shouted or hooted down.

I thank my colleague. I understand the objection to my unanimous-consent request.

I would ask the Chair what the pending business is.

The PRESIDING OFFICER. The pending business is the question on the Senator's appeal of the ruling of the Chair.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Senator's appeal.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. GRAVEL. Mr. President, I yield to the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I intend to move to table the appeal if the Senator yields the floor.

Mr. GRAVEL. I do yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I hope the appeal will be tabled because, obviously, it is a contravention of the rules and the Chair has ruled correctly. No Senator may vote after the Chair has announced the vote on any given matter. The Chair, under rule XII, paragraph 1, is not allowed to entertain any unanimous-consent request to allow a Senator to vote after the Chair has announced the outcome of a vote.

Mr. President, I move to table——

Mr. GRAVEL. Will the Senator yield for a second?

Mr. ROBERT C. BYRD. Yes.

Mr. GRAVEL. I do want to thank the Senator for his fairness.

Mr. ROBERT C. BYRD. Mr. President, I move to table the appeal and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal of the ruling of the Chair. 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 Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr. HEFLIN). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—91

Armstrong	Glenn	Nunn
Baker	Goldwater	Packwood
Baucus	Gravel	Pell
Bayh	Hart	Percy
Bellmon	Hatch	Pressler
Bentsen	Hatfield	Proxmire
Biden	Hayakawa	Pryor
Boren	Heflin	Randolph
Boschwitz	Heinz	Ribicoff
Bradley	Helms	Riegle
Bumpers	Hollings	Roth
Burdick	Huddleston	Sarbanes
Byrd, Harry F., Jr.	Humphrey	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Chafee	Jepsen	Simpson
Chiles	Johnston	Stafford
Cochran	Kassebaum	Stennis
Cohen	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Levin	Stewart
Danforth	Lugar	Stone
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Durenberger	Matsunaga	Tsongas
Durkin	McGovern	Warner
Eagleton	Melcher	Weicker
Exon	Metzenbaum	Williams
Ford	Mitchell	Young
Garn	Morgan	Zorinsky
	Nelson	

NOT VOTING—9

Church	Kennedy	Moynihan
Domenici	Long	Talmadge
Javits	McClure	Wallop

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the motion was agreed to and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call——

Mr. JACKSON. Mr. President, there is a quorum present and I ask we be tallied.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 22 Leg.]

Baker	Ford	McGovern
Baucus	Garn	Melcher
Bayh	Glenn	Metzenbaum
Boren	Goldwater	Mitchell
Boschwitz	Gravel	Morgan
Bradley	Hart	Ribicoff
Bumpers	Hatch	Riegle
Burdick	Hatfield	Sarbanes
Byrd, Robert C.	Heflin	Schmitt
Chafee	Hollings	Stennis
Cochran	Humphrey	Stevens
Cranston	Jackson	Stewart
Danforth	Johnston	Thurmond
Dole	Leahy	Tower
Domenici	Lugar	Tsongas
Durkin	Magnuson	Warner
Exon	Mathias	Weicker

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the motion to reconsider.

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that this request for a quorum call is not in order, and the Chair should not even entertain the request. We have just had a quorum call less than 60 seconds ago, and it has been demonstrated that there is a quorum. The request obviously is dilatory.

Mr. GRAVEL. Mr. President, I believe a Senator can look around the room and see a quorum is not present.

The PRESIDING OFFICER. Under the precedents, the denial of the yeas and nays is intervening business, and therefore another quorum call is in order. The point of order is not well taken.

Mr. ROBERT C. BYRD. Mr. President, I did not say in my point of order that there had not been transaction of business. I simply said that a quorum was established not less than 60 seconds ago and that, obviously, the request was dilatory. That was the statement I made.

I withdraw my point of order.

Mr. GRAVEL. I thank my colleague.

Mr. President, what is the order of business?

The PRESIDING OFFICER. There is a request for a quorum call. If there is no objection, the clerk will call the roll.

Mr. GRAVEL. I thank the Chair.

The assistant legislative clerk proceeded to call the roll.

[Quorum No. 23 Leg.]

Baker	Ford	Pell
Baucus	Garn	Percy
Boren	Goldwater	Pryor
Boschwitz	Gravel	Randolph
Bumpers	Hart	Ribicoff
Burdick	Hatch	Sarbanes
Byrd, Robert C.	Hatfield	Sasser
Chafee	Heflin	Schmitt
Chiles	Heinz	Schweiker
Cochran	Helms	Stennis
Cohen	Jackson	Stevens
Cranston	Johnston	Stevenson
Culver	Magnuson	Thurmond
Danforth	Mathias	Tower
Dole	McGovern	Tsongas
Domenici	Melcher	Warner
Durkin	Metzenbaum	Weicker
Exon	Mitchell	

The PRESIDING OFFICER. A quorum is present.

The question is on the motion to table.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

All those in favor——

Mr. GRAVEL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. GRAVEL. The motion to table my reconsideration?

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Gravel motion to reconsider.

Mr. GRAVEL addressed the Chair.

Mr. TSONGAS. Mr. President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Gravel motion to reconsider.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question recurs on the motion to table the motion to reconsider the first appeal.

Mr. GRAVEL. Mr. President, I ask for the yeas and navs on my motion.

The PRESIDING OFFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, what is the question before the Senate, may I ask?

The PRESIDING OFFICER. The Gravel motion to table the Gravel motion to reconsider the vote by which the first Gravel appeal was tabled.

Mr. ROBERT C. BYRD. So the question is on the motion to table the motion to reconsider the vote by which the appeal was tabled?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I offer a cloture motion.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. ROBERT C. BYRD. No Senator has answered his name.

The PRESIDING OFFICER. The Parliamentarian advises that after a quorum call has been ordered, Senators do not have to answer their name in order for it to be in progress.

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

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, Mr. President, I will be happy to let the majority leader file the cloture motion and then proceed to a quorum call. I ask unanimous consent that the majority leader be permitted to file his cloture motion and that the order for the quorum call then be in order.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I withhold my cloture motion for the moment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

Baker	Exon	Percy
Boren	Goldwater	Stennis
Boschwitz	Gravel	Stevens
Bumpers	Hatfield	Thurmond
Byrd, Robert C.	Heflin	Tower
Chiles	Helms	Tsongas
Danforth	Jackson	Warner
Domenici	Mitchell	
	Pell	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. 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 Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. McCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr.

HOLLINGS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 83, nays 6, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—83

Armstrong	Exon	Nelson
Baker	Ford	Nunn
Baucus	Glenn	Packwood
Bayh	Gravel	Pell
Bellmon	Hart	Percy
Bentsen	Hatch	Pressler
Biden	Hatfield	Pryor
Boschwitz	Heflin	Randolph
Bradley	Heinz	Ribicoff
Bumpers	Helms	Riegle
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Huddleston	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Cannon	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Johnston	Simpson
Cochran	Kassebaum	Stafford
Cohen	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Levin	Stewart
Danforth	Lugar	Stone
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Tsongas
Durenberger	Melcher	Warner
Durkin	Metzenbaum	Williams
Eagleton	Mitchell	Young
	Morgan	Zorinsky

NAYS—6

Boren	Hayakawa	Proxmire
Goldwater	Jepsen	Weicker

NOT VOTING—11

Church	Long	Stennis
Garn	McClure	Talmadge
Javits	McGovern	Wallop
Kennedy	Moynihan	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. GRAVEL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Gravel motion to table the Gravel motion to reconsider the vote by which the Gravel appeal was tabled.

The question is on agreeing to the motion.

Mr. GRAVEL. The pending motion, Mr. President, is the motion to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRAVEL. There is not a sufficient second?

The PRESIDING OFFICER. There is not a sufficient second.

SEVERAL SENATORS. Vote!

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

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, this motion is not debatable. Under the precedents, I believe a request for the yeas and nays, if denied, constitutes business, does it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

That is a pretty poor precedent, if I may say so, the denial of the yeas and nays should not constitute business.

I am tempted to override the Chair on this, but I will not do it tonight. I am a little tired.

Let us give him the yeas and nays on this motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. 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 Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—88

Armstrong	Ford	Nelson
Baker	Glenn	Nunn
Baucus	Goldwater	Packwood
Bayh	Gravel	Pell
Bellmon	Hart	Percy
Bentsen	Hatch	Pressler
Biden	Hatfield	Proxmire
Boren	Hayakawa	Pryor
Boschwitz	Heflin	Randolph
Bradley	Heinz	Ribicoff
Bumpers	Helms	Riegle
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Huddleston	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Cannon	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Jepsen	Simpson
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stewart
Danforth	Levin	Stone
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	Mathias	Tsongas
Durenberger	Matsunaga	Warner
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Exon	Mitchell	Zorinsky
	Morgan	

NOT VOTING—12

Church	Long	Stennis
Garn	McClure	Talmadge
Javits	McGovern	Wallop
Kennedy	Moynihan	Young

So the motion to table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, it is obviously futile to remain on the bill any longer today because we are getting nowhere.

As I indicated last night, the distinguished Senator from Alaska could tie up the Senate all of last night, today, tomorrow, and Wednesday if he so desired.

So I am going to enter a cloture motion on the committee substitute.

Of course, as Senators know, it is not even easy under cloture but at least it will be somewhat more difficult, I believe, for those who oppose the bill to obstruct it by the use of dilatory tactics. I say this with respect to the Senator from Alaska. I have considerable sympathy for his position and I am not an advocate of the bill or an advocate of its defeat. But I do have responsibility to try to move the legislation along.

We have known for months that the legislation was going to be called up and so it is up. I have no intention of calling it down.

I only want to see the Senate work its will on the bill one way or the other.

So I am going to offer a cloture motion, but I want to make a parliamentary inquiry before doing so.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Mr. President, the cloture motion will read as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act.

I ask the Chair if the amendments that are set forth in the time agreement which was entered into on February 7 would be germane. Those are amendments to the substitute. Would those amendments to the substitute be germane in the event cloture is invoked?

And I specifically ask if the Tsongas substitute would be germane in the event cloture is invoked on the committee substitute.

Mr. GRAVEL. Mr. President, if the majority leader will yield, will he be specific on my amendments and the amendments of the other Senator from Alaska?

Mr. ROBERT C. BYRD. I ask if all amendments as set forth in the agreement would be germane.

The PRESIDING OFFICER. All the perfecting amendments would be germane. The printed version of the possible substitute by the Senator from Massachusetts has one provision that is being studied by the Parliamentarian, and it is apparent at this time that that one provision of the amendment is not germane.

Mr. GRAVEL. Would the Chair please repeat? This Senator did not hear the Chair.

The PRESIDING OFFICER. The printed version of the projected substitute by the Senator from Massachusetts has one provision that appears not to be germane.

Mr. ROBERT C. BYRD. But would the substitute itself be germane with that provision or would the substitute be germane only if that provision is deleted or revised?

The PRESIDING OFFICER. If that provision were deleted, the substitute would clearly be germane.

Mr. ROBERT C. BYRD. For the information of the Senate would the Chair mind stating, would the Chair mind identifying, that provision at this time?

The PRESIDING OFFICER. It is the provision dealing with the environmental impact statements under the RARE II provision.

Mr. STEVENS. Mr. President, will the

Senator yield for a parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. STEVENS. Is that the so-called release portion that has been discussed?

The PRESIDING OFFICER. It has been so identified.

Mr. ROBERT C. BYRD. Does any other Senator wish me to yield?

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. I yield for that purpose.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. GRAVEL. That would mean that obviously the Senator from Massachusetts would have an opportunity to correct it prior to the possibility of it being put to a vote after two legislative days.

The PRESIDING OFFICER. That is correct.

Mr. GRAVEL. Mr. President, will the Senator yield for another parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield to the Senator from Alaska for a parliamentary inquiry.

Mr. GRAVEL. I make these inquiries on the time I have on the bill and not on the time I have on my amendments.

The germaneness with respect to the three amendments that I have is not called into question, is that the situation, the parliamentary situation?

The PRESIDING OFFICER. All of the other amendments have been reviewed and the conclusion is that they are germane.

Mr. ROBERT C. BYRD. I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, under the rules when would I be required to file the substitute for it to be in order?

The PRESIDING OFFICER If cloture is filed today it would be at 1 p.m. on the next day, by 1 p.m. on the next day, that the Senate is in session.

Mr. TSONGAS. So it would be 1 p.m. tomorrow if we were to be in session?

The PRESIDING OFFICER. That is correct.

Mr. TSONGAS. Mr. President, will the leader yield to me for two brief comments?

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. I would like to say that sometimes you do not know who your friends are around here. We have a situation where those who basically share my philosophy have been arguing these last 2 days that you should have this put off until after the convention and somehow MORRIS UDALL will be able to work his magic in the Senate.

I wish they would spend a little more time reading the rules because there is no way that can happen since I have to introduce a substitute tomorrow at 1 o'clock.

It seems to me that this body has a certain responsibility and I will tell you that I, for one, take my obligation very seriously, and I feel free at this point to do what I think is right irrespective of any constituency because I think there is a point at which this amateurish effort being made by people on both sides is counterproductive. We have opposite sides doing exactly the same thing for exactly opposite reasons and, by definition, they cannot both be right. So I am going to pursue what I think is the course that is incumbent upon me by my office.

The second point: There are many Senators who have been inconvenienced by this process, and I would like to serve notice on my colleagues that we are going to finish the Alaska lands bill as long as I am in the Senate, and you cannot take this off the floor without the consent of every single Member. I do not intend to allow that to happen. I feel very strongly about this. I do not think one person should be in a position to frustrate the will of 99 others, and to those Senators who come in, establish a quorum and then disappear, as long as that continues to happen, just be prepared to stay and stay and stay.

We are going to get an Alaskan bill this year whether it is acceptable to the National Association or the Alaskan Coalition. That is immaterial to me, but there is a bill going to the House. What they do is their choice. I am committed to that cause, and let nobody make a mistake about that.

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

Mr. ROBERT C. BYRD. Mr. President, I think one thing should be made clear. It cannot be guaranteed by a single Senator that this bill remain the business until it gets his consent. This bill can be disposed of and put back on the calendar within the next 5 minutes without unanimous consent from the Senate, so I say that to my friend.

Let it not be misunderstood that a single Senator will keep this bill before the Senate until his consent is given. The rules do not require that.

But may I also say to the Senator that it is my intention to see the Senate act on this bill one way or the other. That is the reason I am offering the cloture motion.

I yield to the distinguished Senator from Alaska.

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. President, the release language is language the Senator from Oregon and I have worked on, along with the Senator from Washington. It is language that has been previously adopted pertaining to areas that were identified for potential wilderness and, therefore, are released from the wilderness designation when Congress acts on the overall designation on RARE II.

My inquiry to the Chair is should that provision stay in there, a provision which is very vital to the balance of our whole solution as proposed as far as the southeastern portion of Alaska is concerned, if a point of order is raised against it, if the point of order was not sustained by the body that portion of the amendment would not disqualify that amendment. Is it not possible under the procedures of the Senate for it to stay in and for the Senate to determine that it is germane after cloture?

The PRESIDING OFFICER. That is possible.

Mr. STEVENS. It would not take unanimous consent to do that?

The PRESIDING OFFICER. If a point of order was made and the point of order was sustained by the Chair it would be subject to appeal and a vote by the Senate, by a majority vote.

Mr. STEVENS. Mr. President, if the Senator will yield to me for just a comment——

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I find myself in the unfortunate position, of being in a position of having the Senate in position, where I thought we might get, unfortunately, because of dilatory tactics. We are now in the situation where the Senator from Massachusetts can no longer meet some of the objections that I have raised and modify his amendment, as I understand it, after 1 o'clock tomorrow. There will be no opportunity even though the bill may be read by a half million Alaskans over the period of time, and there would be no opportunity to change it in response to those requests because of the dilatory tactics that have been used. We will not have the opportunity to make any changes in the substitute in that period of time.

I think it is unfortunate that we have been put into the position where we cannot work our way through the bill and try to achieve a liveable solution. I still think the Senate version of this bill as it came out of the committee was acceptable to me and could go to a conference and actually come out with even greater balance, I think. But the statements which have just been made by Members of the House alarm me a little bit because the process we are going through now—I had envisioned that we might be able to see the House agree to the final product, even though I would oppose it. I would not hope to see further revisions that would take out some of the concessions that the Senator from Massachusetts has made to those of us who have had discussions with him.

I can only say that I am saddened by the process.

We will be voting on cloture on the day we return, as I understand it. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. Does this mean that the amendments that we already have on file, or since I have the so-called "no more" clause on file that I wanted added to this committee substitute, that, too, has to be modified by 1 o'clock tomorrow, is that correct?

The PRESIDING OFFICER. If it is already on file, it would be eligible to be called up.

Mr. STEVENS. But I would have no right to modify it after 1 o'clock tomorrow afternoon, is that correct? This is a first-degree amendment to the Senate Energy Committee substitute.

The PRESIDING OFFICER. It would be subject to the second-degree amendment which could be filed on the day that the Senate comes back.

Mr. STEVENS. The second-degree

amendment. What about my first-degree amendment?

The PRESIDING OFFICER. That cannot be changed.

Mr. STEVENS. It cannot be changed after tomorrow at 1 o'clock or it cannot be changed now?

The PRESIDING OFFICER. It could be refiled between now and 1 o'clock tomorrow.

Mr. STEVENS. Well, I regret that we have been put in the position where the Senate will face cloture and have the situation develop where 60 votes may terminate the debate on this bill at any time. I think that is unfortunate.

Mr. TSONGAS. Will the Senator yield?

Mr. STEVENS. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. Would the Senator wish to make a unanimous-consent request and would it be in order, Mr. President, that the substitute and the amendments to be offered by the junior Senator from Alaska (Mr. GRAVEL) and the senior Senator from Alaska (Mr. STEVENS) could be filed postcloture vote rather than 1 o'clock tomorrow? Would that request be in order under the unanimous-consent request?

The PRESIDING OFFICER. Such a request can be made.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the amendment of the senior Senator from Alaska (Mr. STEVENS), the three amendments of the junior Senator from Alaska (Mr. GRAVEL), and the substitute be in order if they are filed by 12 o'clock on Monday the 18th of August.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, would the distinguished Senator from Massachusetts add "and that they be determined germane"?

Mr. TSONGAS. Yes.

The PRESIDING OFFICER. I think the Chair should make clear that under the unanimous-consent agreement the junior Senator from Alaska is entitled to two more amendments.

Mr. TSONGAS. I so revise my request.

Mr. GRAVEL. I have one amendment that is pending.

Mr. TSONGAS. I have noticed.

Mr. GRAVEL. And that would still be the pending business.

The PRESIDING OFFICER. That is not affected, the one that is already pending.

Mr. GRAVEL. As long as what we filed, the two amendments, are germane and that they be filed prior to 12 o'clock on the 18th.

The PRESIDING OFFICER. The Senator from Massachusets has made his unanimous-consent request.

Mr. GRAVEL. Will the Chair indulge me? Germane and in order.

Mr. STEVENS. Mr. President, I do not understand that request.

The PRESIDING OFFICER. Is the junior Senator from Alaska asking that they automatically be considered germane?

Mr. GRAVEL. Yes. Otherwise, the purpose of the unanimous-consent request the distinguished Senator from Massachusets is making is of no avail.

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, germane to what? To the House bill, to the Senate Energy Committee bill, to the Tsongas substitute, or what?

The PRESIDING OFFICER. It would have to be germane to the Senate committee substitute, that is what cloture is being filed upon.

Mr. STEVENS. The Tsongas substitute is not germane to the Senate committee substitute.

The PRESIDING OFFICER. The unanimous-consent request is that it be considered germane.

Mr. STEVENS. Do I understand the Senator from Alaska is asking that the release language must come out?

The PRESIDING OFFICER. The Chair is trying to determine whether the request is that the amendments be declared germane sight unseen by the Chair. If that is the desire of the unanimous-consent agreement by the Senators and they understand that request, I am ready to propound it and see whether or not there is any objection to it.

Mr. TSONGAS. Mr. President, that is not the request I make. If we want to get to that subsequently, we can. I simply want to change the time requirement from 1 o'clock tomorrow until noontime, August 18. That is the only request that I am making.

Mr. ROBERT C. BYRD. Mr. President, I reserve the right to object and, for the moment, I do object, because I do not know what we are getting into. We have a kettle full of rusty nails as it is.

I wish Senators would just take a few minutes and be sure of what they are doing, make sure that this is what they want to do, and then I would have no objection.

Mr. GRAVEL. Will the majority leader yield?

Mr. ROBERT C. BYRD. But there is a lot of confusion here on the part of the principals who know something about this bill and I know very little about it. I am not sure they understand what the import of this request would be.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, it is my understanding that the majority leader's motion that has been signed by other Members of the Senate on cloture is filed to bring about cloture on the committee substitute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. And that means that the Tsongas substitute, being a substitute for that substitute, the vote would occur as it is set forth in the time agreement. The time limit on that amendment would be 4 hours. Is that correct?

The PRESIDING OFFICER. That would not be vitiated by the cloture.

Mr. STEVENS. Is the Senator from Alaska correct in his feeling that that would still mean that the amendments of the two Senators from Alaska would have to be disposed of prior to calling up the Tsongas substitute as it is in the present time agreement?

The PRESIDING OFFICER. That facet of the agreement would stay in force; the Senator is correct.

Mr. STEVENS. And the amendments of the two Senators from Alaska being amendments to the committee substitute, under the time agreement must be germane to the committee substitute. Would that be changed by the request that is being made?

The PRESIDING OFFICER. Under the agreement and cloture, they would both have to be germane.

Mr. STEVENS. And what is the standard for germaneness for the Tsongas substitute, then, under the request that has just been made?

The PRESIDING OFFICER. It would have to be germane to the committee substitute.

Mr. TSONGAS. Parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

Mr. TSONGAS. Mr. President, it is my understanding that it would have to be germane to the House bill, as well, since we are dealing with H.R. 39, the committee substitute to that bill.

The PRESIDING OFFICER. If cloture is invoked on the substitute, if it is filed on the substitute, it would have to be germane to that.

Mr. TSONGAS. Is the Chair ruling that, with the exception to the RARE II release issue, that everything in the substitute is germane as it has been filed?

Mr. STEVENS. Will the Senator yield? May I ask the majority leader if he would yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. There is another provision in the Tsongas substitute that is not in the House bill and not in the committee substitute, the "no more" clause that the Senator has added at my request. That is not in either the House bill or the committee substitute.

May I ask, then, with the consent of the majority leader, if a matter is in the Tsongas substitute and neither in the committee substitute nor the House bill, would it be subject to the comments of the Chair concerning germaneness?

The PRESIDING OFFICER. It would be.

Mr. STEVENS. I might say, with the consent of my friend from West Virginia, that it is a very critical subject to me that that amendment stay in. I hope that we will not be tied down by a strict interpretation of germaneness at the request of the other Senator from Alaska to remove the "no more" clause from this bill.

Mr. TSONGAS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. Mr. President, the two issues in question are points that have been raised in negotiations by the Senator from Alaska. They are critically important to Alaska. They are not important, frankly, to my side of the issue. I would suggest perhaps a unanimous-consent request may be filed at this point to make those two issues germane. I would not object to that. We have dealt

with them fairly. If they make that request, I would support it, and I think that would eliminate one of the concerns that the Senator has.

Mr. STEVENS. Mr. President, I would, if the majority leader will yield to me for the purpose of adding to the request that will be made, ask him to include in any request that is to be made concerning the postponing of filing these amendments, or in any event the consideration of the amendments under cloture should it be adopted, that the two amendments that have been mentioned, the only two provisions I know of at this time that are in the committee substitute that are not in either—no, they are in the Tsongas substitute as revised, but they are not in the committee substitute or the House bill. One is the so-called "no more" clause and the other is the release language.

I would ask, with the consent of the majority leader, that in the consent agreement that is entered into, if those can be qualified at this time by unanimous consent, and I assume from the response by the Chair that they could be qualified by unanimous consent, if possible they be qualified now to possibly eliminate any points of order on the Tsongas substitute on the basis that those two items would render the substitute nongermane.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. GRAVEL. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRAVEL. I would like to address a question to the Chair.

Mr. ROBERT C. BYRD. On whose time, Mr. President?

The PRESIDING OFFICER. With the Senator from West Virginia having the floor, it will be assumed to be taken from the time of the Senator from Washington.

Mr. GRAVEL. Mr. President, do the amendments have to be filed 1 day prior to the cloture vote?

The PRESIDING OFFICER. First-degree amendments have to be filed by 1 p.m. the day after cloture is filed.

Mr. GRAVEL. The day after or the day before cloture is filed?

The PRESIDING OFFICER. The day after. They are filed 1 day before the vote.

Mr. GRAVEL. That would be tomorrow. Do I still have the 1 hour on my side on each of the amendments that I have?

The PRESIDING OFFICER. If cloture is invoked, it changes the unanimous-consent agreement as to time, the Senator would have 1 hour on the entire package.

Mr. GRAVEL. Mr. President, I think we now come to something that is pretty fundamental. That is that I do not think it has been done too often in the Senate, and maybe not at all. Maybe the Parliamentarian can enlighten us. Has there been cloture effected or involved with a bill that has had a unanimous-consent time limitation on it?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that, in his recollection, this is the first time it has ever happened.

Mr. GRAVEL. That is what I thought, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. Let me state that if cloture is invoked, cloture will supersede in any area in which the agreement is inconsistent with cloture. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And in areas where the agreement is not inconsistent with the cloture rule, then no change occurs in the agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And if cloture is invoked on the substitute, then the bill itself would be governed by the agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So, Mr. President, I am content now to ask that the clerk state my cloture motion.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act.

Robert C. Byrd, Paul E. Tsongas, Abraham Ribicoff, Wendell H. Ford, Barry Goldwater, Mark O. Hatfield, Howard M. Metzenbaum, Charles McC. Mathias, William S. Cohen, J. James Exon, Henry M. Jackson, George T. Mitchell, Max Baucus, David Pryor, Alan Cranston, Rudy Boschwitz, Jennings Randolph, Walter D. Huddleston, Gaylord Nelson, Richard (Dick) Stone, Carl Levin, Birch Bayh, Patrick J. Leahy, and Warren G. Magnuson.

Mr. ROBERT C. BYRD. Mr. President, I intend to go into morning business shortly, but I want to give Senators an opportunity, if they wish, to discuss a unanimous-consent request, as Mr. TSONGAS did earlier and propounded one. I want them to have that opportunity. I do not want to shut off any opportunity to make progress on the bill or to rule out further unanimous-consent requests. I simply want to make sure that they have adequate time, though, to fully contemplate the results of those unanimous-consent requests. They may appear on the surface to be very progressive in nature and at the same time may open up a lot of new loopholes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, before going into morning business, I would like to ask unanimous consent that the Senate may proceed for an additional 15 minutes on the pending bill; that there then be routine morning business; that Senators may speak during that period of routine morning business up to 5 minutes each, and that I may then be recognized to recess the Senate over until tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, Mr. President, this Senator feels we are plowing—and I yield myself time on the bill, Mr. President, not on my amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAVEL. Perhaps the Senator will yield me time. If he is hanging on to a short leash, perhaps we can put some time on the leash.

I would say to the distinguished leader that we are plowing some very unusual ground.

Mr. ROBERT C. BYRD. May I say to the Senator I have no objection to staying another half hour, but I want to make sure I have the floor because I am not going until midnight tonight or midnight tomorrow night. I want to be sure that I do not lose my right to the floor any time I wish to reclaim it.

Mr. GRAVEL. I have no problem with that. I just want to tell the majority leader I have a lot of time, too, and I will be happy to stay until midnight.

Mr. ROBERT C. BYRD. Will the Chair protect my right?

The PRESIDING OFFICER. The Senator from West Virginia has the floor, he did not lose it by propounding unanimous-consent request.

Mr. GRAVEL. I object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I yielded without losing my right to the floor.

Mr. GRAVEL. That is fine. I will defer to the Senator from West Virginia in any case.

Mr. ROBERT C. BYRD. I simply want to announce to the Senate that so far as I can ascertain, I hope Senators will enjoy my saying this, there will be no more rollcall votes today.

Mr. GRAVEL. If the Senator had permitted me to finish, I might have been able to put myself in the position to do that. Right now, I am not. I would like to engage in a colloquy with the Parliamentarian on this very serious new ground we are plowing. If I am permitted to do that, perhaps I will be able to cooperate with the majority leader. I have tried the best I can.

Mr. ROBERT C. BYRD. I think the Senator is seeing problems where there are none. I am simply saying I am wiling to yield the floor with the understanding that I do not lose it, but will the Senator agree with me that other Senators may go home with the understanding there will be no more rollcall votes tonight?

Mr. GRAVEL. I will be happy to agree with my colleague on that basis if I had some idea of the agenda tomorrow. I would like to raise a point of order at a point that is proper pertaining to the filing of the cloture petition with respect to a unanimous-agreement bill. I think that ground has to be looked at by a lot of Senators here. We are plowing new ground. We should know the consequences of it. And particularly when it is a vitiation of a unanimous-consent agreement by and large by those who were not party to the unanimous-consent agreement.

Mr. ROBERT C. BYRD. What is the Senator's point of order?

Mr. GRAVEL. The unanimous-consent agreement, as I understand it, when we stand on the floor, is a pretty sacred thing and it cannot be changed unless there is a unanimous-consent agreement that is again entered into. Now we have a device to vitiate unanimous-consent agreements by a small cabal or group of Senators who may choose to file cloture.

That may be fine, Mr. President, and that may be what we want to do; that may be the precedent we want to set. But I, for one, think that it is something that should be examined very closely.

I suggest this to the majority leader, that I would be prepared to rise to a point of order on it and have it go over to tomorrow and have a vote on that at a time certain. I think that would be a very fair way to do it. We could sleep on it. I think we are all shooting from the hip a little bit.

With that, we could have a vote on this ruling that I shall ask the Chair to make. The Chair would have an opportunity to study it overnight. I think we are dealing with momentous new areas that have a way of atrophying agreements, atrophying individual prerogatives of Senators. This would permit the matter to come up tomorrow at a proper time that the leader would want. Then we could continue with our deliberations on the legislation tomorrow.

The PRESIDING OFFICER (Mr. BOREN). The Chair states that the Chair is prepared to rule.

Mr. ROBERT C. BYRD. Mr. President, first, the cloture vote does not necessarily vitiate the agreement. It only vitiates any portions of the agreement that would be inconsistent with the rule; otherwise, the remainder of the agreement would remain in effect.

Would the Senator like to state his point of order? I shall be glad to yield for that purpose with the understanding that I not lose my right to the floor.

Mr. GRAVEL. If the Senator will yield to me just to make a brief comment in preparation for that.

Mr. ROBERT C. BYRD. Yes; without losing my right to the floor.

Mr. GRAVEL. I really want to assure the leader that I have no intention of intervening with his rights as a leader in that respect. I am sticking very closely to the agreement.

In that regard, we entered into a unanimous-consent agreement. That agreement can only be vitiated by the participants of that agreement. So we are now setting in motion a device of vitiating unanimous-consent agreements through a cloture device. I think that is a new device.

My point of order is that I rise to a point of order that a cloture motion on a bill that has a unanimous-consent agreement is not in order. That is the point of order that I rise to.

I would suggest, and I merely offer this as a suggestion to the leader, that we would be well advised—I respectfully offer this suggestion to the leader—to go over to tomorrow on the determination of this question and we can have just an up or down vote on it. But, at least, everybody would have a chance to take a good hard look at what we are doing at this late hour.

The PRESIDING OFFICER. The point of order having been raised, the Chair is prepared to rule.

The Chair rules that there is no provision in the rules or the precedents of the Senate that would preclude the offering of the cloture motion. I quote from rule XXII, paragraph 2, which uses the term "at any time a motion signed by 16 Senators to bring to close the debate upon any measure, motion, other matter pending before the Senate" and so on.

The Chair rules that the cloture motion was in order and the point of order is not well taken.

Mr. GRAVEL. May I ask the chairman one question?

The PRESIDING OFFICER. The Senator will state the question.

Mr. GRAVEL. As the rules have been changed, does a Senator have 1 hour or does a Senator have 5 minutes under cloture?

The PRESIDING OFFICER. Under the rule as amended last year, the Senator has up to 1 hour. He would not have a guarantee of 1 hour, but under the rules, he has up to 1 hour.

Mr. GRAVEL. What is he guaranteed under the rule, Mr. President?

The PRESIDING OFFICER. A guarantee of 10 minutes.

Mr. GRAVEL. I think Members ought to sleep on this question before they make decisions on how this will be determined.

I respectfully thank the leader and suggest that we vote on this tomorrow.

Mr. ROBERT C. BYRD. Mr. President, may I say to my friend that I think we ought to vote on it tonight. Senators are here. Some Senators will probably not be here tomorrow.

Mr. President, I appeal the ruling of the Chair and I move to lay the appeal on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Delaware (Mr. ROTH), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—72

Armstrong	Glenn	Percy
Baker	Hart	Pressler
Baucus	Hatch	Proxmire
Bayh	Hatfield	Pryor
Bellmon	Hayakawa	Randolph
Bentsen	Heinz	Ribicoff
Biden	Hollings	Riegle
Boren	Huddleston	Sarbanes
Boschwitz	Inouye	Sasser
Bradley	Jackson	Schmitt
Bumpers	Jepsen	Schweiker
Burdick	Johnston	Simpson
Byrd, Robert C.	Kassebaum	Stafford
Cannon	Leahy	Stevenson
Chafee	Levin	Stewart
Cohen	Lugar	Stone
Cranston	Magnuson	Thurmond
Danforth	Mathias	Tsongas
DeConcini	Matsunaga	Warner
Domenici	Melcher	Weicker
Durenberger	Mitchell	Williams
Durkin	Nelson	Zorinsky
Eagleton	Nunn	
Exon	Packwood	
Ford	Pell	

NAYS—16

Byrd, Harry F., Jr.	Gravel	Morgan
Chiles	Heflin	Stennis
Cochran	Helms	Stevens
Culver	Humphrey	Tower
Dole	Laxalt	Young
	Metzenbaum	

NOT VOTING—12

Church	Kennedy	Moynihan
Garn	Long	Roth
Goldwater	McClure	Talmadge
Javits	McGovern	Wallop

So the motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. STENNIS. Mr. President, on the last recorded rollcall vote that we took I came in during the rollcall itself and voted on the pending matter, not fully realizing the possible full import, as I found out later. It is a very sensitive situation, and I would really like a chance to reconsider my vote, but that is out of the question.

I do though, since it will not even touch the result, ask unanimous consent that I may change my vote and let the RECORD show my vote change.

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

Mr. STENNIS. I do not want to set a precedent.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object in this case, this is a matter that has been discussed at some length on our side from time to time and, frankly, I understand the statement made by the Senator from Mississippi, and I will not object at this point. But I would simply like the RECORD to show that absent special circumstances I think it is not a practice that we ought to engage in very liberally.

Mr. STENNIS. Well, Mr. President, I appreciate the Senator's sentiments, and I have never indulged in such request before.

I feel, though, if I had studied it out further and were dissatisfied with the matter, then I would be forced to vote against cloture in most all circumstances

should there be an amendment pending. But as a substitute for reconsideration I made the request to be permitted to change my vote.

I thank the Senator.

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

Mr. ROBERT C. BYRD. Mr President, may I say for the record that this request is really not out of the ordinary. On many occasions Senators have in the past by unanimous-consent changed their vote on a given matter provided it did not change the outcome. It is, of course, the right of any Senator to object to the request, but it is done from time to time. The caveat is that the Senator must have voted in the first instance, which the Senator did.

Mr. BAKER. And not change the result.

Mr. ROBERT C. BYRD. And not change the result.

(The foregoing vote has been changed to reflect the above order.)

Mr. ROBERT C. BYRD. Mr. President, I think it is better to have a motion to reconsider made tonight than to be made tomorrow or the second day of session. So I move to reconsider the vote by which the appeal was tabled.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that I be allowed to file a cloture motion today, on which the vote would occur the second day after the Senate returns. I make this request so that the Senate will not have to be on the bill tomorrow.

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

Mr. ROBERT C. BYRD. Mr. President, is there any order for the recognition of Senators on tomorrow?

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

Mr. ROBERT C. BYRD. I yield.

Mr. GRAVEL. I should like to propound a unanimous-consent request, if the majority leader will permit me. It would go something like this:

Recognizing that we are plowing new ground and that none of us has had an opportunity to judge what that means, particularly in terms of our particular involvement with the amendments we have——

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. It strikes me as not an unreasonable request that we have until the end of the calendar day tomorrow to get our amendments in order with germaneness, to meet with the Parliamentarian, and all that, rather than by noon tomorrow.

I think we are all tired and groggy, and this certainly would necessitate a little more comfortable situation in our case, rather than having to stay up late and get up early in the morning and try to read what is involved.

What is the majority leader's reaction to that request? Can we have it by the end of the calendar day tomorrow, rather than noon?

Mr. ROBERT C. BYRD. If the Senator intends to request that the 1-hour deadline under the rule be extended to the close of business tomorrow, I would have no objection.

Mr. GRAVEL. Not the 1 hour. Is it the filing of amendments? I was not sure what the rule was.

The PRESIDING OFFICER. It is 1 p.m.

Mr. ROBERT C. BYRD. I do not mean 1 hour. I mean 1 p.m.

Mr. GRAVEL. I would like to have that until the end of the calendar day, which would be midnight.

Mr. ROBERT C. BYRD. By the close of business tomorrow. Would that be all right?

Mr. GRAVEL. If the Senate goes out early, that may be a very short day. That is why I was suggesting a calendar day.

Mr. ROBERT C. BYRD. Six o'clock, then?

Mr. GRAVEL. That is fine.

Mr. ROBERT C. BYRD. That the 1 p.m. provision be modified to read 6 p.m. tomorrow.

Mr. GRAVEL. That is fine.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, I inquire of the majority leader what tomorrow's program is. Are we going to go on to the pending bill, with the pending amendment, after we lay aside the Alaska lands bill? What is the bill?

Mr. METZENBAUM. H.R. 1197.

Mr. MELCHER. H.R. 1197, with the pending amendment. No. 1959.

Mr. ROBERT C. BYRD. No; it would not be my intention to go back to that tomorrow.

Mr. President, I ask unanimous consent that after the two leaders or their designees——

The PRESIDING OFFICER. There is a pending unanimous request of the Senator from Alaska. Is there objection to the request of the Senator from Alaska?

Mr. STEVENS. Mr. President, reserving the right to object, all amendments must be filed by 6 p.m. tomorrow and they cannot be modified after that. Is that correct?

The PRESIDING OFFICER. Amendments in the first degree would have to be filed by 6 p.m., assuming that cloture is subsequently invoked.

Mr. STEVENS. Am I correct in my understanding that they cannot be modified after that time, under this request?

The PRESIDING OFFICER. Not if cloture is invoked. Then it would require unanimous consent to modify.

Mr. ROBERT C. BYRD. At the present time the hour of 1 p.m. is the bewitching hour.

Mr. STEVENS. To that request, I have no objection.

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

Mr. GRAVEL. I thank my colleague.

Mr. STEVENS. Mr. President, will the Senator yield to me for the purpose of a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, I will make a request as to the amendments that are in the revised Tsongas substitute dealing with the release of wilderness lands, the "no more" provision. I am told there are some questions now that have been raised by the submerged lands and section 6(k) waiver dealing with the eastern part of the State of Alaska. I ask unanimous consent that no point of order lie against the Tsongas substitute because of those four provisions in the Tsongas substitute at my request.

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

Mr. STEVENS. I thank the Senator.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk in accordance with the order that was entered a moment ago.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act:

Robert C. Byrd, Paul E. Tsongas, Abraham Ribicoff, Wendell H. Ford, Barry Goldwater, Mark O. Hatfield, Howard M. Metzenbaum, Charles McC. Mathias, William S. Cohen, J. James Exon, Henry M. Jackson, George T. Mitchell, Max Baucus, David Pryor, Alan Cranston, Rudy Boschwitz, Jennings Randolph, Walter D. Huddleston, Gaylord Nelson, Birch Bayh, Patrick J. Leahy, Warren G. Magnuson, and Richard (Dick) Stone.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I see no reason for any rollcall vote tomorrow.

May I inquire of all Senators if they agree with me?

No Senator anticipates calling for a rollcall vote on tomorrow so there will be no rollcall votes tomorrow.

ROUTINE MORNING BUSINESS

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

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

THE 1981 BUDGET: BACK TO BALANCE

Mr. HARRY F. BYRD, JR. Mr. President, now that the administration has projected spending of $634 billion and a deficit of $30 billion for 1981, we are being told that this spending boom is inevitable—that forces beyond anyone's control have pushed the Government's obligations through the roof.

Let us examine that claim.

In January, the President sent a budget to the Congress calling for spending of $616 billion.

Shortly thereafter, the then chairman of the Budget Committee, our distinguished former colleague Edmund Muskie, asked me and other Senators who favored a balanced budget to submit to his committee recommendations for spending reductions.

I responded in a letter to Senator Muskie on March 18, detailing more than $26 billion in reductions which I felt were feasible and equitable, although admittedly uncomfortable in some instances.

Incidentally, my proposals did not—repeat not—include any cuts in scheduled social security increases, nor did they reduce Federal employee retirement benefits.

Approximately one-fourth of these reductions actually were made in the first concurrent budget resolution, and as of now it appears that about $6 billion of these cuts are included in the President's budget program.

That leaves $20 billion in savings which have proven unacceptable to the President and the Congress.

Now, if that $20 billion in cuts had been approved, projected spending for 1981 would be not $634 billion, as the President projects, but rather $614 billion.

In submitting his new spending increases on July 21, the President said most of them were necessitated by higher defense costs and higher unemployment compensation payments. In fact, these two items represent $16 billion of the $22 billion in recent spending estimate increases. If the Congress were to deny or offset the remaining $6 billion, the estimate could be reduced by that amount.

Together with adoption of my proposals, that would bring outlays down to $608 billion.

Under these conditions the now-projected deficit of $30 billion would shrink to $4 billion. Most of this remaining $4 billion could be saved by eliminating local revenue sharing, or preferably, reducing categorical grants-in-aid by a like amount.

We would then once again have a budget in balance, or nearly so and further cuts could be made to bring it into balance.

More importantly, the Congress would have seized control of runaway Federal spending.

This would be a giant step toward fiscal responsibility and a truly meaningful effort to combat the recurring bouts of inflation and unemployment which have plagued our economy in recent years.

DEPORTATION OF LAW-BREAKING IRANIAN NATIONALS

Mr. HAYAKAWA. Mr. President, yesterday I addressed my colleagues on the need for administrative procedures to deport Iranian nationals who are in this country breaking the law. Since giving that statement I have learned that 46 of the 192 Iranians—Khomeini supporters—who were arrested have been released. I find this incredible.

I am told that these demonstrators were originally arrested on charges of disorderly conduct, the punishment being 5 days in jail, which time they have already served. Because they would not identify themselves they were detained by the INS for not disclosing information. However, when they gave their names, they were released. The only action remaining for the INS is to verify the validity of their visas.

If their visas are valid they can reside in this country. They can continue to propagandize against the United States, thus jeopardizing the safety of our hostages in Tehran.

Mr. President, as I said yesterday, these troublemakers would not be allowed to roam unimpeded in our streets if my American Sovereignty Protection Act had become law. It was introduced on March 19. My legislation would have given the President the legal power to define these Iranian dissidents as enemy aliens and placing them in detention centers or deporting them or otherwise restoring civil order.

Therefore, Mr. President, I am asking again my colleagues for their support and their immediate consideration of S. 2437, the American Sovereignty Protection Act.

I thank the Chair.

THE DEATH OF DR. VINCE MOSELEY

Mr. THURMOND. Mr. President, an outstanding South Carolina physician, Dr. Vince Moseley, died recently after more than 30 years of distinguished service to the Medical University of South Carolina (MUSC).

Dr. Moseley left an indelible mark on medicine in South Carolina, and his outstanding work touched countless lives. His selfless efforts on behalf of handicapped children greatly benefited many, and his untiring work for the medical profession will long be remembered.

Dr. Moseley was an able physician whose compassion and skill earned him the respect of people throughout the country. He was the recipient of a special Humanitarian Award from Lake City, S.C.; the Durkee Award for Outstanding Contributions to the Care of the Retarded; the Wisdom Award of Honor and the Dedicated Service and Education Award by the professional staff of the Medical University of South Carolina. The Vince Moseley Diagnostic Clinical Building in Charleston was named in his honor, and it was recently announced that a new lecture series named after Dr. Moselev would be established at the Medical University.

Dr. Moseley played an important role in medicine in South Carolina. He was assistant vice president and coordinator of extramural affairs as MUSC, director of the division of continuing education at MUSC, dean of clinical medicine at the university, and chief of medical services at the Charleston Veterans' Administration Hospital.

His service in the State included chairman of the board of South Carolina Retarded Children's Habilitation Center, president of the Charleston County Medical Society, trustee of Presbyterian College and Palmer College. He was a member of the Governor's Advisory Committee on Vocational Rehabilitation, a member of the health facilities advisory council of the State board of health, and chairman of the Trident Forum for the Handicapped.

For this outstanding service to his State and Nation, Dr. Moseley was awarded an honorary degree of doctor of humane letters, he was named an "Outstanding Educator of America," and was recipient of the MUSC Medical Alumni Association's Distinguished Faculty Award.

Dr. Moseley was an outstanding physician, educator, and humanitarian, and he will be sorely missed. My deepest sympathy is extended to Dr. Moseley's wife, Matilda, and his eight children at this time of sadness. They can take genuine solace, however, from the lifelong benefits gained by sharing a close family association.

Mr. President, in order to share a newspaper article and editorials concerning the death of Dr. Moseley with my colleagues, I ask unanimous consent that they be printed in the RECORD.

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

[From the Charleston (S.C.) Evening Post, July 11, 1980]

DR. VINCE MOSELEY

He was remembered by his fellow physicians as a bedside teacher of students, interns and residents in diagnostics and treatment. To others he was known for his dedication to—and innovations in—the field of mental retardation. To all who knew him he was a thorough, competent clinician with a special love for his fellow man.

Dr. Vince Moseley served at the Medical University of South Carolina until his retirement in 1978 as dean of the division of continuing education and assistant vice president for extramural affairs. He was the prime mover in establishing the MUSC diagnostic and evaluation clinic that bears his name.

A native of Orangeburg, he arrived in Charleston in 1947 following Army duty in World War II and commenced his 31 year association with what was then the Medical College. Over those years his mustachioed, slightly plump figure, often dressed in seersucker, white shoes, bow tie and planter's hat, became part of the scene. His vocation was best described in his own words, "It's easy to be critical of the old family doctor who sat at bedside, took the pulse and temperature and sponged down his patient . . . but a lot of people made recoveries."

His memory will live on in the hearts of thousands who were his students or his patients during a long and illustrious career.

Doctor Vince Moseley, dead at the age of 67.

[From the Columbia (S.C.) State, July 11, 1980]

CHARLESTON PHYSICIAN, VINCE MOSELEY, DIES

Charleston physician Dr. Vince Moseley died at his home Thursday morning.

Dr. Moseley was 68 years old and had calmly waited several months for death after refusing medical treatment for cancer.

He left deep imprints on medicine in his home state through more than 30 years of association with the Medical University of South Carolina. Dr. Moseley was also deeply involved with improving the lives of handicapped children and was the adoptive father of eight.

Services will be held Saturday at 11 a.m. at the Cathedral of St. Luke-St. Paul at Coming and Vanderhorst streets with interment in the cathedral churchyard.

In commenting upon Dr. Moseley's death, Dr. William H. Knisely, president of the Medical University, said, "Dr. Moseley's passing is a truly tremendous loss to the people of South Carolina and the country.

"His skills as a clinician and teacher are widely acclaimed. His association with the Medical University, spanning 31 years, has left a lasting impact on this institution and upon the many health professionals who were his students. His contributions to the welfare of the mentally retarded were monumental. Dr. Moseley will be remembered by us all as a compassionate, talented physician beloved by all."

Dr. Moseley retired from his position as assistant academic vice president and coordinator of extramural affairs at the Medical University in 1978. His responsibilities included overall administrative direction of the Area Health Education Center, Statewide Family Practice Residency Training Systems, Community-Based Cancer Prevention, the Hospital Consortium of Affiliated Hospitals, the Emergency Medical Services and the Division of Continuing Education.

In his capacity as director of the Division of Continuing Education, Dr. Moseley was responsible for developing the South Carolina Health Communications Network, which provides closed circuit continuing education programs to health care professionals across the state and beyond.

Earlier in his career, he served as dean of clinical medicine at the Medical University and chief of medical services at the Charleston Veterans Administration Hospital.

Dr. Moseley's dedicated efforts on behalf of handicapped children have earned him numerous honors, including the naming in his honor of the Vince Moseley Diagnostic Clinical Building in Charleston.

He was recipient of a special Humanitarian Award from Lake City, the Durkee Award for Outstanding Contributions to the Care of the Retarded, the Wisdom Award of Honor in 1972 and the Dedicated Service and Educator Award by the Professional Staff of the Medical University of South Carolina.

It was recently announced that a new lecture series, named after Dr. Moseley, would be established at the Medical University through a grant from the Department of Mental Retardation. The series is to bring in nationally recognized experts in the field of mental retardation to lecture to medical students.

Dr. Moseley served as chairman of the board of trustees of the South Carolina Retarded Children's Habilitation Center and chairman of the S.C. Commission for Mental Retardation. He was president of the Charleston County Medical Society and trustee of Presbyterian College and Palmer College.

Also, he has served as a member of the Governor's Advisory Committee on Vocational Rehabilitation; a member of the Health Facilities Advisory Council of the State Board of Health; and member and chairman of the Trident Forum for the Handicapped.

In June 1977, Dr. Moseley was awarded an honorary degree of doctor of humane letters from the Medical University.

Dr. Moseley was named an "Outstanding Educator of America" in 1972 and was recipient of the MUSC Medical Alumni Associations' Distinguished Faculty Award in 1972.

In January 1974, Dr. Moseley and the South Carolina Regional Medical Program, for which he was the coordinator from 1968 to 1977, were cited by the S.C. Hospital Association "for an outstanding contribution to health care in the State." A similar honor was accorded Dr. Moseley and the SCRMP by the S.C. Heart Association in 1975.

Dr. Moseley was certified by the American Board of Internal Medicine. He was a member of 16 scientific organizations and medical societies, including the AMA, South Carolina Medical Society, American Clinical and Climatological Association and the American Therapeutic Society. Also, he held the post as South Carolina governor for the American College of Physicians and as chairman of the Medical Section of the Southern Medical Association. He was a member of the International Society of Internists and was a Fellow of the Royal College of Health.

Dr. Moseley was born in Orangeburg. He received his A.B. and medical degrees from Duke University.

During World War II he served with the U.S. Army and rose to the rank of lieutenant colonel. He headed the Medical Service of a 1,000-bed general hospital in Panama and later served as chief of the officers section and assistant chief of the medical section of Letterman General Hospital in San Francisco, Calif., and as executive officer at Wakeman General Hospital.

Surviving are his wife, the former Matilda Holleman, and eight children.

The family suggests that contributions be made to The Health Sciences Foundation of the Medical University of South Carolina for the Vince Moseley lectureship in mental retardation.

[From the Charleston (S.C.) News and Courier, July 14, 1980]

DR. VINCE MOSELEY

During his 31-year association with the Medical University of South Carolina, Dr. Vince Moseley was a clinician, teacher and innovator in the expanding area of continuing education in health education. In all those capacities he gained and held the respect and the admiration of his professional peers and fellow citizens alike.

Dr. Moseley turned his talents alternately from classroom to research to the development of new ways of continually upgrading the knowledge of practicing physicians, nurses and medical technicians. Nowhere, however, was there greater evidence of his total commitment to cause than in the field of mental retardation. He was the prime mover in setting up and then directing a diagnostic and evaluation clinic in Charleston which today bears his name. He was instrumental in the establishment by the state of the rehabilitation center at Ladson. Chairman of the state's commission on mental retardation, he pursued persistently better ways to meet the needs of the retarded.

The clinic named in his honor and other concrete reminders tell something of Dr. Moseley's contributions to medicine and more particularly to the welfare of the mentally retarded. They do not tell all. Affable and quiet spoken, he was the very antithesis of the stern man of science. In the doctor-patient relationship he gave more than medical help. He gave love and understanding.

Compassion was the characteristic that all who knew Dr. Moseley noticed first and remember best. It was demonstrated both in his office and at home. He and Mrs. Moseley adopted eight children.

Dr. Moseley's death Thursday at 67 ended a career dedicated to healing and helping. He will be remembered by many as a most unordinary man who cared always about other people.

SOVIET BASE IN VIETNAM

Mr. THURMOND. Mr. President, the determination of the Soviet Union to spread communism in Southeast Asia and to bring economic pressure through seapower throughout the South Pacific is more evident every day.

An article in the August 3, 1980, issue of the Washington Star entitled "Vietnam's Cam Ranh Base Is Called Soviet Spy Nest" confirms the warnings many of us have issued about Soviet use of its growing military power to extend influence throughout this vital area.

This growing Soviet naval and air base in Vietnam is being used to monitor oil shipment routes in the Straits of Malacca and pressure countries of the Pacific which depend upon oil for their economic survival.

In addition, the Soviets are using these bases to launch bomber flights which can be over the Malacca Straits and other key Pacific points in a few hours.

This major spy center also threatens the U.S. Fleet Headquarters in the Philippines and brings pressure on Thailand to reach some accommodation with the Soviets and the Vietnamese Armed Forces which have taken over Cambodia and are threatening Thailand's border with Cambodia.

Mr. President, Congress has begun to awaken to these threats to our economic lifelines by the Soviets, although the administration still proposes relatively low levels of defense expenditures. We must maintain and increase our military strength to preserve our economic and political independence when we are faced with a major power so determined to expand its control throughout the world.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

VIETNAM CAM RANH BASE IS CALLED SOVIET SPY NEST

PEKING.—China said yesterday the Soviet Union has converted the former American military base of Cam Ranh Bay in Vietnam into a major spy center that threatens the U.S. fleet headquarters in the Philippines, Asian sea lanes and China itself.

Peking warned the Soviet takeover of Cam Ranh Bay, once an American staging area for the Vietnam war effort, was only the first stage in a Soviet buildup in the region.

"Cam Ranh Bay has been practically handed over to the Kremlin and has been made its main naval and air base in Southeast Asia," the official news agency Xinhua said.

Peking said Soviet warships and warplanes are using the massive base 180 miles north of Ho Chi Minh City to closely monitor U.S. naval movements at the Subic Bay base in the Philippines, the South China coast and the Straits of Malacca.

Soviet bombers are within two hours flying time of the Straits of Malacca, a critical chokepoint through which most of Japan's oil passes from the Middle East and which is used by the bulk of shipping in the region.

"It is clear that this Soviet military presence in Southeast Asia is a formidable threat to peace and security of this area and to world peace as well," Xinhua said.

"Whenever opportunity offers, it (the

Soviet military) can easily move into Southeast Asia in force, block the Strait of Malacca and cut off the sea lanes vital for the United States, Japan and other countries," Xinhua said.

The news agency said Cam Ranh Bay was "paving the way for more warships and airplanes to operate from Vietnam" and noted the Soviets already had converted some Vietnamese military facilities into "Soviet bases without a Soviet sign."

U.S. officials also have expressed concern with the increased Soviet military presence in Vietnam and Assistant Secretary of State Richard Holbrooke discussed it with Chinese leaders during his recent visit to Peking.

Western sources said the Soviets had shifted their major military operations in Vietnam from Danang to Cam Ranh Bay and they have begun building up at the bay.

"The Soviets don't have to ask the Vietnamese for anything," one diplomat said. "They can fly in there whenever they damned well please. They are the only act on that airfield."

SOVIET AND CUBAN SUBVERSION IN CENTRAL AMERICA

Mr. THURMOND. Mr. President, two recent newspaper columns point to the ill-advised policy of the Carter administration in Nicaragua and El Salvador.

The failure of administration policies to prevent Communist takeovers of these Western Hemisphere nations covered by the Monroe Doctrine is becoming more apparent every day.

These articles point out that the Soviets and Cubans are using Marxist Nicaragua and Panama to funnel military equipment and personnel into the area to overthrow the Government of El Salvador.

These activities are in part the result of our confusing policy when Soviet troops were placed in Cuba and Soviet airpower there increased.

Not only are we witnessing a major effort to communize nations in our own hemisphere, but the United States is actually providing economic aid to the Marxist government in Nicaragua which appears to be playing a key role in this plan.

Mr. President, these events are of the most serious consequence for the future of Central and South America. I urge the administration to expose these subversive acts by the Soviets and Cubans, and to develop a realistic policy to turn back this unacceptable flow of events.

Mr. President, I ask unanimous consent that these articles—one in the Washington Post by Rowland Evans and Robert Novak on July 30, 1980, entitled "Carter's Caribbean Choice" and the second in the Washington Star by Cord Meyer on August 2, 1980, entitled "The Danger in El Salvador," be printed in the RECORD.

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

[From the Washington Post, July 30, 1980]

CARTER'S CARIBBEAN CHOICE

(By Rowland Evans and Robert Novak)

Two convoys of ships carrying Soviet arms from Cuba have been secretly unloaded in Marxist Nicaragua to help build a growing weapons cache there for use in the coming battle for neighboring El Salvador, a development that may force beleaguered President Carter to reconsider his courtship of the left in Central America.

This secret supply undercuts the administration's policy of aiding Nicaragua's Sandinista regime in hope of preventing its total embrace of Moscow and Havana. Similarly, the administration has adopted the leftist cause in El Salvador, while giving a cold shoulder to anti-Communist elements.

Thus, the revelation of Marxist Nicaragua's turning into a staging area for subverting El Salvador puts a hard Caribbean choice to Carter. Should he try to rally national support for himself on this issue, he would have to sacrifice his own policy. Yet senators in close touch with the worsening Caribbean crisis, such as Democrat Richard Stone of Florida, may demand exactly that.

Officials here believe the arms sent to Nicaragua are earmarked for use by Marxist factions in the battle for El Salvador. That is the next intended victim of Soviet-backed insurgency in what used to be Uncle Sam's backyard.

Exactly what equipment was delivered is not yet known to U.S. intelligence officials, who described the unopened crates as containing "heavy equipment." What these sources do know is that arms already delivered to Nicaragua include Soviet tanks and long-range artillery pieces. Like the arms in the newly disclosed two convoys, all came from Cuba.

For Jimmy Carter, this continuing evidence of Soviet-Cuban intentions to dominate the Caribbean comes at a precarious political moment in an area of critical sensitivity. If détente is dead elsewhere, Carter's men have worked hard to insulate Central America from the Cold War.

There has been a pattern to Carter decisions in the beleaguered Caribbean since he courted Cuba's Fidel Castro by cancelling a U.S. naval exercise at Guantanamo Bay in January 1977. Time and again, Jimmy Carter has either looked away or explained away each provocation: the sinister Nicaraguan mission to Moscow early this year; the appearance in Cuban waters last year of two Soviet submarines; the late 1978 discovery that Moscow was arming Cuba with late-model MiG23s potentially capable of nuclear delivery.

U.S. diplomats in Central America—especially Nicaragua and El Salvador—have operated on orders that amount to this: a warm embrace for the left, a cold shoulder to the right. Those who did not go along were removed. In sucessfully pressing for aid to Nicaragua, the administration unsucessfully tried to get it on an unconditional basis with no democratic procedures required.

Carter may decide that the new Soviet arms challenge should not be dismissed with wordy assurances that all is well in the Caribbean. With opposition to this renomination rising and his standing in the polls sinking to record lows, Carter may react sharply to this new challenge from the Moscow-Havana axis.

After Carter backed out of his demand last September that the Soviet brigade be withdrawn from Cuba, the Iran and Afghanistan crises revived his political fortunes just in time for the primary season. Could Central America do the same now even if it means standing his present policy on its head?

But the case for action transcends election-year politics. "The Russians and the Cubans are testing, testing," one high-level official told us. If Carter allows this newest test to pass unchallenged, he added, no Caribbean country up to and including Mexico can fail to get the message: "It's up for grabs and they're doing the grabbing."

One Democratic senator who backs Carter's reelection will put this demand to Carter: make a complete disclosure to the American people; cut off the $65 million in U.S. aid now available to the Sandinista regime (and block an additional $70 million aid package now moving through Congress); prepare for action, including a naval blockade, if Castro again thumbs his nose at the White House.

Such actions might help Carter's fallen political fortunes. Far more important; they would finally show a glint of Carter steel at the U.S. back door that would match the genuine efforts he is making to block further Soviet encroachments in more distant parts.

[From the Washington Star, Aug. 2, 1980]

THE DANGER IN EL SALVADOR

While the attention of both press and public is diverted by the Roman circus of "Billygate," Marxist guerrillas in El Salvador with Cuban support are quietly setting the stage for a "final offensive" to take over that Central American country of 5 million people.

Last month, the crash in El Salvador of a Panamanian plane carrying ammunition to the guerrillas provided dramatic proof that the clandestine supply network that helped insure the Sandinista victory in Nicaragua is now functioning to assist the Salvadoran revolutionaries.

More recently, only the Miami Herald has given any coverage to a scandal in Costa Rica in which the minister of security has been forced to resign. The resulting judicial investigation has revealed that at least 16 secret cargo flights of arms of Cuban and Venezuelan origin have flown since December from Panama via Costa Rica to El Salvador, presumably without the knowledge of the non-communist governments involved.

On the basis of good intelligence reporting, Carter officials hinted in congressional testimony last March at the full extent of Cuban intervention. Charging Castro with supplying weapons, funds and training, they testified that "aircraft landings at isolated and remote haciendas" were being used as "a conduit for men and weapons." State Department officials now go further and concede there is evidence that Cuban officers are serving inside El Salvador to coordinate the newly unified guerrilla forces.

Having learned from the Nicaraguan experience the high price of passivity in the face of such aggressive intervention, the Carter administration is now urgently trying to bolster the junta of reform-minded military officers and Christian Democratic leaders who replaced the right-wing regime in El Salvador last October. Although the junta has been weakened by the defection of some moderates, this centrist regime remains the best hope of heading off a Castro-sponsored takeover by extreme radicals whose cruel fanaticism rivals that of Pol Pot in Cambodia.

It is late in the day and the stakes are very high, because a Castroite victory in El Salvador would not only doom whatever hope remains for moderation in Nicaragua but would provide a new base for the destabilization of all Central America, eventually threatening the Panama Canal and the Mexican oil fields. Venezuela, Costa Rica and even Panama seem increasingly aware of the danger and are supporting the El Salvador government.

Carter officials estimate that the junta's chances depend on its ability to fight simultaneously on three separate but related fronts. To win the support of the landless peasantry that makes up nearly half of the Salvadoran population, the junta has pushed through a program of land redistribution that gives title to the land to 150,000 small tenant families and that transforms the large estates into locally owned cooperatives. Former owners are compensated on the basis of assessed value, and the new owners are allowed 30 years to pay for their property.

In a bold move, the Carter administration has not only supported this radical reform but has helped in its implementation by a $1 million grant to the AFL–CIO's American

Institute for Free Labor Development, which has trained many of the cooperative managers. Early indications are that the harvest under the new system will be better than expected, and the recent failure of two Marxist general strikes is proof of the political impact of the reform.

On a second front, that Carter administration is pressuring the junta to control indiscriminate violence by extreme rightwing groups who oppose both Marxism and land reform and who get some support from elements in the National Guard. This rightwing terror has been deliberately exaggerated for propaganda effect by atrocities committed by left-wing guerrillas masquerading in government uniforms.

Finally, all of these efforts cannot succeed unless the Salvadoran army receives the equipment and training it needs to choke off the Cuban-supported influx of arms and trained guerrillas. It is on this front that the Carter performance is weakest. Fearful of being accused of aiding repression, Carter officials have not dared to ask Congress for more than $5.7 million of "non-lethal" equipment for the Salvadoran army, consisting of trucks and communication gear, while Castro shovels in guns that shoot real bullets.

Would a Reagan administration handle the Salvadoran crisis any better than Carter? A poll of Reagan's experts on Latin America produces mixed results. On the plus side, they are unanimous in calling for increased military and economic aid to the beleaguered junta, including the provision of helicopter gunships and weaponry to cut off Castro's supply lines.

On the issue of land reform, Reagan's position is more difficult to predict, although the landed oligarchy in El Salvador is already counting on a Republican administration to give them back their estates.

Watch for a major Reagan policy speech in September. How he handles the land reform issue will tell us a lot about his ability to cope with the Central American arc of crisis.

THE BUDGET PROCESS—ONE COMPLETE CYCLE

Mr. BELLMON. Mr. President, the budget process has now survived through one complete economic cycle—from recession to recovery and back to recession. The recovery was the longest peacetime recovery since World War II and I for one would like to contribute this in some part to the fiscal discipline and organization which the budget process imposes up on Congress. Hopefully every Member of the Senate has gained valuable insights into the importance of fiscal policy.

The one lesson that all of us who have served on the Budget Committee for any length of time have learned is to refrain from over reacting to short-term economic statistics and projections which turn out to be either temporary abberations of the data or short-term disruptions in a longer term economic trend. To paraphrase a great American humorist from Oklahoma—"If you don't like the economic statistics today, just wait a few days and they're sure to change."

More and more I see the similarity between economic forecasts and weather predictions. Few of us have escaped the annoyance of carrying an umbrella on a sunny day, wearing a sweater in 80 degree heat or arriving at the beach in a downpour. A 50 percent success record qualifies a weatherman for the hall of fame and has driven the industry to disguise their forecasts in a cloak of probability. I would contend that the similarity with economic forecasters is substantial, Mr. President. But, the analogy can only extend so far. The weatherman cannot cause rain by merely predicting rain and usually the only harm that comes from an error is to the weatherman's pride and wrinkled clothes. Economic forecasts, however, can so predispose Congress to a certain policy course, it can be said to "cause" serious economic stress. The recent revised CBO forecast is a case in point.

Last month, CBO presented their midsession economic forecast to the Congress. This forecast shows the economy continuing to decline through the fourth quarter of the year, with only a weak recovery beginning in 1981. This forecast also shows the unemployment rate rising to 9 percent by 1981 and remaining at that level throughout the year.

Since the release of that forecast, and others equally pessimistic, Congress has been in a headlong dash toward stimulative policies. I am, however, deeply concerned by the momentum that has gathered behind stimulative tax cuts and increased spending programs, not only because I am concerned about the prudence of the policies themselves, but most importantly, because I believe they are premised on erroneous economic assumptions. This is particularly true with regard to the inflation and unemployment rate assumptions.

This revision alone, without any change in program assumptions appears to put the fiscal year 1981 budget $25 to $35 billion in deficit due to reduced revenues and increased spending. With a 7½ percent unemployment rate as was assumed in our first concurrent resolution (and this is a historically high unemployment rate) the Federal budget is in balance. The deficit we hear about is the result of weather-like economic forecasts that call for economic storms which may never materialize unless the Congress panics.

Already, there is evidence of a turnaround and that unemployment may have peaked. The June composite leading indicators showed a strong 2.5 percent increase over the previous month and the increase was, in large part due to a decrease in the rate of layoffs, together with improvements in the index of building permits and the index of stock prices. These data raise the real possibility of a more rapid recovery than CBO foresees. Also, the June unemployment data, though registering a small increase in the overall unemployment rate, showed an increase in actual employment for the first time in recent months.

Housing starts increased 30 percent above the May number even after making seasonal adjustments. Automobile production indicated renewed strength as the index of automotive production rose 3.4 percent in June. More importantly, last month's statistics indicate an increase in automotive sales.

Mr. President, to proceed with a forecast that increasingly appears out of date is unwise and raises unnecessary questions about the credibility of the budget process. I, for one, intend to press for updated assumptions. But let me be clear, I do not intend to delay the process.

Some of my colleagues may ask why not wait until after the election like the House Budget Committee? Mr. President, the House's willingness to dismiss the timetable so meticulously prescribed and thought out in the Budget Act is ill-conceived and is a serious impediment to a well functioning and meaningful budget process. If the budget procedure is to work, it must adhere to a timetable which allows for orderly consideration of spending legislation and provides sufficient time for monitoring and enforcement of spending ceilings.

It is not a timetable which allows for arbitrary suspension of the timetable for either political or economic uncertainties. We have, in fact, missed the timetable in the last two budget resolutions, but for technical reasons entirely consistent with the intent of the Budget Act. The delay was regrettable and imposed some strains on an orderly process. But they were not delays which were mandated for purely political reasons—avoiding the possible embarrassment of re-estimates and hard priority decisions, the job we are obligated to fulfill. I, for one, Mr. President, am disheartened by my House colleagues' decision to postpone House consideration of the fiscal year 1981 second budget resolution. In the long run, Mr. President, such action could weaken the discipline and effectiveness of the budget process we have all worked so hard to instill.

In summary, Mr. President, I applaud the announced intention of Chairman HOLLINGS of the Budget Committee to proceed with markup beginning August 18, the date of the Senate's return from recess. It is my intention to try to steer a course as close as possible to a balanced budget in fiscal year 1981. It is in the best interest of the budget process and the economy to meet the deadlines we have imposed, yet to avoid acting precipitously on uncertain and incomplete economic evidence. To take another cue from the weatherman, "a balanced budget is something everybody likes to talk about and we, the Congress, can do something about it."

SERVICES FOR MENTALLY RETARDED CHILDREN

Mr. BELLMON. Mr. President, in December of 1971 I introduced an amendment to H.R. 10604, a bill that amended the Social Security Act in certain respects. In part, my amendment provided that publicly operated facilities for the mentally retarded would qualify as intermediate care facilities under title XIX, the medicaid program, if certain standards were met. These standards included provision of active treatment to the residents of such facilities. The purpose of my amendment was to provide medicaid coverage for institutions such as the three State schools for the mentally retarded run by the State of Oklahoma.

My familiarity with these fine State schools goes back to my days as Governor of Oklahoma. At the time I intro-

duced my amendment, the State schools offered, and they continue to offer today, a wide variety of services designed to enhance the capacity of mentally retarded children to care for themselves, to obtain employment, and to achieve their full potential. The amendment I proposed was approved by both the Senate and the House and became part of Public Law No. 92–223.

Each of the State schools in Oklahoma maintains an educational program for its residents. This program is individualized for each resident and reflects the dual requirements of both the individualized education program as reflected in Public Law 94–142. (The Education of Handicapped Children Act) and the individualized plan of care required by medicaid.

Each State school maintains classroom facilities on the premises of the institution, and since 1965 the Oklahoma Department of Human Services—formerly the Department of Institutions, Social and Rehabilitative Services—has contracted with local school districts for the services of teachers to work with the children. The educational and vocational classes play an important role in the overall habilitation and training of the children at the institutions. The cost of the programs, including the salaries of the teachers and the expense of educational materials, is covered largely through State, local, and Federal education funds.

However, the Oklahoma Department of Human Services provides some modest supplementary payments to the school districts and also pays for and maintains the school buildings in which the classes are conducted. In addition, the department purchases certain educational supplies that are not covered by education funds. These expenses are necessary in order for the State to provide the active treatment required by medicaid. The department of human services has always assumed that these expenditures would be matched with Federal funds under the medicaid program, in the same manner as expenditures for other habilitative services that the State schools offer.

Recently, I learned that the Federal Health Care Financing Administration (HFCA) has concluded that the expenditures that the Oklahoma Department of Human Services has made in connection with the educational programs at the State schools are not eligible for Federal matching under the medicaid program. HCFA justifies its position by citing a regulation promulgated by the Department of Health, Education, and Welfare—now the Department of Health and Human Services—providing that Federal funding for institutions for the mentally retarded under title XIX may not include reimbursement for vocational training and educational activities.

If the regulation means what the Health Care Financing Administration seems to suggest, it is plainly inconsistent with the 1971 amendment. As I stated on the floor of the Senate when I introduced the amendment, the institutions to be covered by the amendment were those that offered "rehabilitative, educational, and training services." At the time I was well aware of the educational programs that the Oklahoma State schools offered, and there was no doubt that they were to be included among the services eligible for medicaid funding. In fact, for many children these services are the heart of the Intermediate Care Facilities for the Mentally Retarded (ICF/MR) program. We in Congress surely did not mean to bring ICF/MR's under title XIX only to exclude a major portion of the ICF/MR services from title XIX coverage.

I would have no difficulty with the HEW regulation if it were intended merely to prevent medicaid reimbursement of expenditures that also were covered by Federal education funds. But HFCA funding for educational or vocational services even where these services are key, integral parts of a total rehabilitation program. I am convinced these officials are plainly wrong about the effect of the 1971 amendment. That amendment covered all of the habilitative services that the Oklahoma State schools for the mentally retarded offer, including the fine educational and vocational programs that benefit Oklahoma's mentally retarded children so much and help to make the State schools among the finest institutions of their kind in the Nation.

It was not my intention in 1971 nor is it my intention now to make the medicaid program responsible for funding widespread education or vocational programs for the mentally retarded. It was my intention then and I am certain that it was Congress intent to fund under medicaid those educational and vocational activities which are provided in furtherance of the medicaid active treatment requirements where the funding is not borne by other local, State, or Federal agencies.

THE TRUTH ABOUT COLLECTIVIZATION OF AGRICULTURE IN THE U.S.S.R.

Mr. HELMS. Mr. President, as ranking minority member of the Senate Committee on Agriculture I have had the opportunity to study Soviet agricultural problems, particularly those resulting from the collective system of agriculture. I was therefore particularly interested in the summary published a few days ago in the Wall Street Journal of a 46-page study by Josif Dyadkin, a Soviet dissident, entitled "Evaluation of Unnatural Deaths in the Population of the U.S.S.R., 1927–1958" and thus covering mainly the years of Stalin's rule.

A portion of Mr. Dyadkin's study has already appeared in a French scholarly journal, the Cahiers du Monde Russe et Sovietique (Notebooks of the Russian and Soviet World). In the United States, Murray Feshbach, U.S. Census Bureau specialist in Soviet demographics termed it "a very serious evaluation." Meanwhile, it should be noted that the KGB arrested Mr. Dyadkin for having released his manuscript abroad.

According to the statistics painstakingly compiled by Mr. Dyadkin, who has considerable experience in applied mathematics, "the unnatural deaths in the period from 1927 to 1958 totaled between 43 to 52 million."

Of these, 30 million died during World War II (10 million more than the Soviets admit) while some 13 to 22 million died at other times from forced collectivization, so aptly termed by Solzhenitsyn as "genocide collectivization," the killing of "non-progressive classes," famine, blood purges and the conditions in concentration camps.[1]

Mr. President, because of the importance of the historical references in this matter, I ask unanimous consent that the footnotes in my written text be printed in the RECORD at the conclusion of my remarks.

The first period of Stalinist control analyzed by Mr. Dyadkin extends from 1929 to 1930 and is that of forced collectivization of agriculture and the wholesale extermination of the more prosperous peasants with their families, a period during which entire regions suffered terrible famine caused not only by nature, but by the government. This period is less known to the general public than the one of the Great Purge (1937–38) but its effects were far more disastrous. Mr. Dyadkin estimates that it brought about the death of more than 10 million, more probably up to 16 million men, women and children.

Mr. President, I ask unanimous consent that the article by James Ring Adams entitled "Revising Stalin's Legacy" and presenting a summary of Mr. Dyadkin's study be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

20 MILLION DEATHS

Mr. HELMS. However, Mr. Dyadkin presents only the statistical outlines of the whole story. The full revelation of the inhumanity of the Soviet collectivization process is evident only through a careful study of other sources, including Soviet sources, to uncover the techniques and the ruthless policy decisions that led to the death of so many millions. Indeed, Dyadkin's estimates can hardly be accused of exaggerating. As I shall shortly point out in some detail, 16 million deaths could well be a bare minimum; even based upon official Soviet sources, a more reasonable calculation could be 20 million and more. A brief historical sketch may help to dispel some of the myths regarding the collectivization of agriculture in the Soviet Union.

This collectivization has been often presented as the sole alternative to an otherwise hopeless situation. The desperate resistance presented by the great bulk of Russian peasantry has been reduced to the resistance of a disgruntled minority of "Kulaks" (tight fists). Indeed, the idea of a collectivized system of agriculture appears to exert a certain fascination for many economists and political scientists, who tend to view it as a good thing on the whole, but unfortunately mishandled in the Soviet Union by that monster Stalin.

To begin with, let us forget the wide-

Footnotes at end of article.

spread myth of the terrible misery of the Russian peasant on the eve of the revolution of 1917. The truth is that, again in the words of Solzhenitsyn, "the material well-being of the peasants was at a level which has never been reached under the Soviet regime." [2]

It is undeniable that until the first years of the present century, agriculture in imperial Russia suffered from many handicaps not the least of which was an antiquated system of landholding by the peasantry, the description of which is outside the scope of this brief outline.

THE STOLYPIN REFORMS OF 1906

But it is an irony of history that a truly revolutionary series of agrarian reforms was started in 1906, only a decade or so before the revolution and became famous under the name of "Stolypin Reforms" after the Prime Minister who initiated them.

But even in these few years, the results of the Stolypin reforms were nothing short of sensational. From 1906 to 1916 Russian peasants acquired close to 9 million hectares of land.[3] By 1916 some 6,200,000 peasant households out of a total of some 16 million owned their farms.[4] Crop yield almost doubled and in 1913 Russia supplied some 40 percent of world wheat exports. Peasant banks and credit unions established prospered so well that by January 1, 1916, there were in Russia 11,412 credit unions with close to 8 million members and 17,000 consumer societies with 3 million members.[5]

The Stolypin reforms laid the base for a swiftly growing class of economically independent and prosperous farmers, solid supporters of law and order and in doing so eliminated the age-old cause of peasant unrest. At the same time the reforms also eliminated the chief arguments of revolutionaries. These now viewed the contented peasants as enemies far more dangerous than the relatively few landed gentry could ever be. The immediate result of their fear was the assassination of Stolypin in 1911. But even his death could not stop the impetus given to the agrarian reform.

Stolypin had estimated that "given 25 years of peace, Russia would be unrecognizable." But World War I broke out in 1914.

The war caused the loss of 4 million lives in Russia and slowed down, but did not stop entirely the development of the Stolypin reforms. The effects of the civil war which followed the revolution of 1917 were far more serious. Seven and one-half million civilian casualties were added to the million killed in combat—some 12½ million in all from 1914 to 1920.[6]

THE BOLSHEVIKS END REFORM

The civil war brought an end to the Stolypin reforms. The Bolsheviks had started by declaring that "land must be handed over to the peasants." [7] But they promptly used the excuse of the civil war to proclaim a state of "war communism" and thus to nationalize the land, trade, industry and peasant labor. Then, on January 24, 1919, "produce levies" were imposed [8] which Lenin declared to be intended "to confiscate all surpluses, to establish a compulsory state monopoly." [9] Peasants were forced to sell at loss or else have their produce confiscated by "produce detachments" that quickly became infamous.[10] Confiscations, punitive expeditions and mass terror followed. The enraged peasants slaughtered their cattle, fields were left fallow, trade stopped. Meanwhile cities starved and desperate workers fled to rural areas only to endure terrible privations there. Predictably uprisings multiplied.

In February 1921, rebellion flared up on an unprecedented scale in the Tambov Province of European Russia, in the present Central Chernozëm or Black Soil Economic Area and spread swiftly to the East, to the Volga, the Urals and into Western Siberia. Military action proved ineffective, the military often siding with the rebels. A terrible cholera epidemic further aggravated the situation. That year the grain harvest was half of that of 1913 and some 20 percent of the horses perished.[11]

THE 1921 FAMINE

The Communists laid the blame for the ensuing horrible famine on the severe enough drought of the summer of 1921, but the real cause of the famine was the total disruption of every normal activity in the country.

Twenty-seven million people were starving at that time in the Soviet Union, particularly in its European part. Foreign aid came mostly from the United States but could reach only some 12 million and domestic help only 3 million. The remaining 12 million were literally left to eat the remaining cattle and even leather and grass.[12] Solzhenitsyn can hardly be accused of exaggerating therefore, when he states that it was "during Lenin's lifetime that no fewer victims died then under Hitler—some 6 million people in the Ukraine and Kuban River basin died of hunger.[13] As he says elsewhere, "the entire Red Trror and the repressions of millions of peasants were formulated by Lenin and Trotsky." [14] Stalin merely took over.

At this point Lenin and his associates realized that the desperate Russian peasant was now more to be feared than foreign armies. A temporary change of policy was needed to pacify the peasant masses.

THE NEW ECONOMIC POLICY

A new economic policy, the so-called NEP, was announced already in March 1921, at the 10th Party Congress. The hated "produce levies" were replaced by a harsh but acceptable produce tax. Freedom of trade and the right to engage in private enterprise within certain limits were also proclaimed.[15]

The results of the NEP were amazingly successful, particularly in view of the prevailing devastations, shortages, the losses of men and cattle and the disruption of communications. Within 2 years the economy of the country was unrecognizable and until 1928 the Soviet Union enjoyed an abundance of food never to be repeated to date.

The situation was developing so well for private enterprise that already in April 1922, at the Eleventh Party Congress, Lenin called a halt to the NEP.[16] By 1923 the U.S.S.R. had accumulated such large grain reserves that in April of that year, the 12th Party Congress issued a decree requiring the government to export the surplus "since it is necessary to provide for the export of peasant grain surpluses that cannot be used within the country" and a year later, in January 1924, the 13th Party Congress stated that "the urban and industrial population of the U.S.S.R. is not a sufficient market for present output".[17] Soviet sources admit that "in 1925 agriculture in the U.S.S.R. reached the pre-war level, yielding 103 percent of pre-war production".[18]

Meanwhile the new Land Code of 1922 gave the peasants the freedom to choose the type of agriculture they preferred. They did so and chose to return to the Stolypin reforms.[19]

It could have been expected that in view of such clear manifestation of the will of the peasants, the new rulers of Russia would give them what they wanted, but such was not the case. The revolutionaries only realized even more clearly that the peasants were still the chief obstacle to their full taking over of power in the country. In April 1925, at the 14th Party Congress, it was decided to "defend the country from any attempts at restorations" (of the old order).[20] And gradually repressive measures were resumed.

THE 15TH PARTY CONGRESS

In December 1927, at the 15th Party Congress, known as the "collectivization Congress", the fate of the peasantry was definitively sealed. And at the beginning of 1928, Stalin began to introduce what was at first a limited terror—repressions, illegal searches, police surveillance, prohibition of sales of wheat in markets and villages and so on.

The peasants now becoming accustomed to their reacquired prosperity reacted with violence. Izvestiya reported (Dec. 8, 1928) that some 24,000 acts of anti-Communist rebellion (armed aggression, arson and so on) had occurred that year. Uprisings started occurring throughout Russia. In the Smolensk area alone, 34 acts of terrorism took place in July–August 1929 and 47 in October.[21]

Stalin then decided to act decisively. Officially he would lay the blame for the troubles on the wealthier elements among the peasantry, the two million or so "kulaks",[22] those who owned from 10 to 12 hectares of land, their agricultural equipment and also employed farm workers and/or rented out their surplus equipment.[23] But criteria varied greatly according to region.

THE LIQUIDATION OF THE KULAKS

In a speech on "Problems of Agrarian Policy" delivered on December 27, 1929, Stalin made it plain that the problem of agrarian policy in the U.S.S.R. was "first and foremost to strengthen the Party dictatorship over the people." [24] Two days later, on December 29, 1929, he announced the "complete liquidation of kulaks as a class." On January 5, 1930, a Decree of the Central Committee of the CPSU on Rates of Collectivization called for the total collectivization of the U.S.S.R. to be completed by the fall of 1931 or the spring of 1932 at the latest.[25] It was by now obvious that col-

Footnotes at end of article.

lectivization of agriculture was needed as a form of political and organizational control of the rural population.

Then on February 1, 1930, the government authorized the executive committees of districts and oblasts to use "all means judged useful to fight the kulaks up to and including total confiscation of possessions and expulsion of these elements to certain districts and oblasts." [26]

From January on there followed a horror-filled period of demented terror when kulaks were sent to labor camps where most died of hunger and cold, when even clothing was confiscated. It was moreover difficult if not sometimes impossible to distinguish between classes of peasants: Kulaks, slightly prosperous, or poor peasants, as they refused to be categorized by urban bureaucrats.[27]

Tragically enough, the fate of Russian peasants was mainly in the hands of men from the cities. Most of the officials sent to enforce collectivization were of urban origin, the party having virtually no rural base. By 1930, the Bolsheviks did include some members from rural areas, but many of the so-called peasants were in fact workers sent to the villages to manage local party cells. Rural areas were thus controlled and watched by men ignorant of rural problems.[28]

According to data from the November 1933 Plenum of the CC CPSU on "Political Departments in Agriculture", "shock brigades" totaling some 25,000 volunteers "carefully and personally" picked by the CC CPSU,[29] also members of the Young Communist League and even military contingents,[30] were also sent in 1929 to the rural areas to help quell the fierce and desperate opposition of the so-called anti-Soviet rural elements. A total of some 5,389 political departments were created at Machine and Tractor Stations, or about one in each collective farm.[31]

The Communists were efficient enough. In October 1929 only 4 percent of the peasantry were members of kolkhozes. By March 1930, already 58.1 percent had moved into kolkhozes, but at the cost of close to half of the large horned cattle and the horses.[32] Matters reached the absurd, when for instance a militant Communist was quoted in a publication (Bednota—The Poor) of April 4, 1930 as saying that "it was necessary to collectivize even the hens and the hogs because to preserve them would be to strengthen individualism among the peasants".[33]

But the situation again got out of hand as uprisings and acts of terrorism multiplied. The harvest of 1930 was clearly threatened. And again the government decided to retreat—for a while, and also in a way that proved to be a master stroke of tactics.

STALIN RETREATS

In early March 1930, Stalin published an article entitled "Dizziness Due to Success" in which he laid the blame for the prevailing excesses and abuses squarely on the shoulders of the lower echelons of the party. A few Communists were even shot to prove Stalin's sincerity and instructions from the CC CPSU followed on the ways to restore order and justice.[34]

This was the first time that the party acknowledged having made mistakes and the effect of this new-found humility was all that Stalin could wish for. The people rejoiced at the news that something would be done at last to help them and hoped for better days. The more so since Stalin also declared that the adherence to a collective farm was a "voluntary matter". Delighted at the news, the people immediately showed what they could do in a "voluntary" way. They left the kolkhozes en masse.[35] If in early March 1930, 58.1 percent of the peasants belonged to kolkhozes, only 21 percent did so by September of that year.[36]

But there was a catch to the newly acquired freedom. The peasant leaving the kolkhoz could recuperate his possessions handed over when he joined it, but only in the form of cash at Government prices, 10 to 20 times lower than the market value. He was therefore unable to purchase anything to start afresh on his own. Even so the peasants left the kolkhozes. But once on their own they were beggars and could benefit from none of the allotments of consumer goods distributed to members of kolkhozes.[37] And so it was that by the middle of 1931, more than half of the peasants were back in the collective farms.[38] And in despair many peasants fled in 1930–31 to the cities, and even more so did the same in 1932–33, at the height of the enforced collectivization.[39]

RENEWAL OF OPPRESSION

Meanwhile repressions started again with a renewed vigor and to all the evils was once again added that of a terrible famine in 1931–32.[40] The latter was clearly organized to break down peasant resistance once and for all, because it was largely due to the confiscation of seeds from the farmers and to similar abuses.[41]

Scenes of horror included even cannibalism. At the January 1933 Session of the CC CPSU one of the participants said to Kaganovich: "But they have already started to eat people (in our area)", to which Kaganovich retorted: "If we give way to our nerves * * * they will eat you and me * * * will that be preferable?" [42]

Meanwhile merciless deportations continued until the end of the collectivization in 1933. Conservative western estimates give the tentative figure of some 3 million deportees and set the number of those who "disappeared" at some 5 million.[43]

OFFICIAL SOVIET STATISTICS

Actually it is in Soviet publications that one can find unintended confirmation of the estimates of deaths due to collectivization given by Mr. Dyadkin in his study. For instance in her repeatedly reprinted "History of the U.S.S.R.," Prof. A. M. Pankratova writes that in 1929, shortly before the total collectivization began, there were about 25 million peasant households in the U.S.S.R.[44] These figures are given also elsewhere. Of these households, some 2 million fell into the category of kulaks, 18 million into that of fairly prosperous farmers and 5 million into that of poor farmers.[45]

But then Pankratova writes that in 1937, shortly after collectivization was completed, there were 18.5 million peasant households in collective farms or 93 percent of the total number.[46] No explanation is given for the missing millions.

Other Soviet sources are more specific. Thus in 1939, the Bolshevik, an official organ of the CC CPSU also states that 93 percent of peasant households were in collective farms and gives their total number for that year at 20,152 million. The Bolshevik also gives the figures of 25,725 million peasant households in the U.S.S.R. for March 1930, 20,835 million for 1935 and 20,125 million for 1938.[47] These figures indicate a loss of some five and one-half million peasant households between 1930 and 1938, a loss due to the elimination of "kulaks" and other "harmful elements" and also to the emigration to the cities of such peasants as managed to do so.[48]

If it is assumed that an average household numbered some four of five people, it would result that some 20 to 25 million people "disappeared" in the process of collectivization.

Even taking into account the several million who emigrated to the cities at the height of the collectivization campaign, (some four million according to some estimates)[49] at least 15 to 20 million remain unaccounted for.

How did they disappear? There was the concentration camp, the unheated crowded cattle trains, the firing squad.[50]

By 1933, the situation had become so intolerable, that commissions had to be sent to more critical areas with the power to liberate some arrested peasants in order to save the harvest.[51]

Nevertheless, in 1934, terror was given a fresh impetus as Special Bureaus were created to take care of the "socially dangerous" persons: surviving kulaks, artisans, "nepman" (itinerant rural merchants who proposed during the NEP) and potential "saboteurs" of collectivization.[52]

But even the most inhuman means of coercion could not force the peasants to produce enough food for the survival of Communist domination. And so it was that at the very height of the collectivization campaign, in March of the terrible year of 1932, the Soviet Government was forced to permit peasants to own some cattle. "Each kolkhoz worker must have his own cow" Stalin declared sagely in February of 1933.[53] But this was not a return to the NEP. It was merely a safety valve and also a very reluctantly admitted need to maintain some stable and indispensable even if small supply of available food. By 1938, one such subsidiary plot yielded a profit seven or eight times that of an identical plot cultivated by the same peasants for the collective farm.[54]

To this day the subsidiary plots are the mainstay of Soviet food supply supplemented by massive grain imports.

One may think that the horrors barely outlined here are never to be feared anywhere else but in the Soviet Union and its satellites and that our enlightened social scientists would be incapable of even considering such inhuman meas-

ures however attractive the ultimate goal could be.

The remarks of one French social scientist, Pierre Sorlin, concerning the early days of Soviet collectivization may therefore be of some interest:

"But why did the (Soviet) authorities go so far?" asks Sorlin. And he answers: "The only logical answer lies in the examination of society as it was at that time: an amorphous mass in full demographic growth. A whiplash could galvanize energies without presenting any risk. Some individuals would rebel but they would be drowned in the mass. The rural population (of Russia) was already too large, accidents mattered little. On the simple plane of social facts, the reasoning adopted was correct: production fell at first, 4 million (sic) individuals died (1929–32) but the enterprise succeeded." [55]

At the other end of the Eurasian continent, a Chinese Communist leader, Liu Shao Chi gave what is perhaps one of the most accurate definitions of Soviet-style agrarian reform: "Agrarian reform is a systematic and fierce struggle against feudalism * * * Its objective is not to give land to the poor peasants nor to lessen their misery; this is the ideal of philanthropists, not of Marxists. Distribution of land and of possessions may profit the peasants, but this is not the objective sought. The real objective of agrarian reform is the liberation of the forces of the country." [56]

FOOTNOTES

[1] *Time*, Feb. 18, 1980, p. 48.
[2] *Foreign Affairs*, Spring 1980, p. 804.
[3] Pierre Pascal: *Histoire de la Russie des origines à 1917*. Paris, 1967, p. 128.
[4] N. Rutich: *The CPSU in Power*. Munich, 1960, p. 3.
[5] Pascal, *op. cit.*, p. 128, 129.
[6] Pierre Sorlin: *La Société Soviétique 1917–1967*. Paris, 1967, p. 77.
[7] Lenin: *Works*, v. XXII, 3rd edition, 1931, p. 20.
[8] V. S. Mertsalov: *The Tragedy of Russian Peasantry*. Posev, 1949, p. 11.
[9] Lenin: *Works*, v. XXVI, 3rd edition, 1931, p. 247.
[10] Mertsalov: *op. cit.*, p. 11.
[11] Sorlin, *op. cit.*, p. 84, 86.
[12] *Ibid.* p. 86.
[13] *Time*, Feb. 18, 1980, p. 48.
[14] *Foreign Affairs*, Spring 1980, p. 803.
[15] Mertsalov, *op. cit.* p. 12.
[16] A. Avtorkhanov: *The Communist Party Apparatus*, Chicago, 1966. p. 280.
[17] *The CPSU in Resolutions and Decisions . . .* 7th edition. Moscow, 1954, Part I. pp. 708, 788.
[18] A M. Pankratova: *History of the USSR*. Part III. Moscow, 1946. p. 316.
[19] Mertsalov, *op. cit.* p. 13.
[20] *Ibid.* p. 13.
[21] Merle Fainsod: *Smolensk under Soviet Rule*. 1967. p. 271.
[22] Rutich, *op cit.* p. 329.
[23] Sorlin, *op cit.* p. 92.
[24] Rutich, *op cit.* p. 329.
[25] Stalin: *Problems of Communism*. 11th edition. Moscow, 1947. p. 297.
[26] Roland Gaucher: *L'Opposition en URSS*. 1917–1967. Paris, 1967. p. 140.
[27] *Ibid.* p. 141.
[28] Sorlin, *op cit.* p. 148.
[29] Rutich, *op. cit.* p. 332.
[30] Sorlin, *op. cit.* p. 134.
[31] Rutich, *op. cit.* p. 332.
[32] Ibid. p. 329, 330.
[33] Sorlin, *op. cit.* p. 144.
[34] Mertsalov, *op. cit.* p. 38.
[35] *Ibid.*
[36] *Ibid.* p. 39.
[37] *Ibid.* p. 38.
[38] Rutich,, *op. cit* p. 331.
[39] Sorlin, *op. cit.* p. 331.
[40] *Ibid.* p. 145.
[41] *Ibid.* p. 149–50.
[42] *Socialist Herald*, New York, May 1956, quoted in Rutich, *op. cit.* p. 331.
[43] Gaucher, *op. cit.* p. 144.
[44] Pankratova, *op. cit.* p. 330.
[45] Rutich, *op. cit.* p. 329.
[46] Pankratova, *op. cit.* p. 343.
[47] *Bolshevik*, no. 10. 1939, quoted in Mertsalov. *op. cit.* p. 40.
[48] Mertsalov, *op. cit.* p. 40.
[49] Sorlin, *op. cit.* p. 157.
[50] T. K. Chugunov: *Calvary of a Russian Village*, Munich, 1968, p. 97.
[51] Rutich, *op. cit.* p. 331.
[52] Sorlin, *op. cit.* p. 139.
[53] *Ibid* and Rutich, *op. cit.* p. 333.
[54] Sorlin, *op. cit.* p. 152.
[55] Sorlin, *op. cit.* p. 144.
[56] Jean Ousset: *Marxisme et Revolution*. Paris, 1973. p. 85.

EXHIBIT 1

REVISING STALIN'S LEGACY

(By James Ring Adams)

Iosif Dyadkin, a 52-year-old Soviet geophysicist, was a relatively quiet dissident, but that didn't stop the authorities from giving high priority to his arrest this spring. The KGB picked him up in his home city of Kalinin, on the Volga, apparently for the crime of doing some embarrassing statistical detective work. Using officially published population figures, Mr. Dyadkin tried to discover how many people had died unnatural deaths during the years 1927 to 1958, a period primarily consisting of Stalin's rule.

His 46-page *samizdat*, a privately circulated manuscript written in a dry, scientific style, told a shattering story. The unnatural deaths in this period totaled between 43 million and 52 million. The nature of the statistics did not draw distinctions between political deaths from Stalin's repressions and war casualties (which could be called another kind of Soviet government failure). Mr. Dyadkin deduced that fighting, deprivations and prison camps during World War II claimed 30 million Soviet lives; this is some 10 million more than the Soviet government acknowledges. Thus he concluded that some 13 million to 22 million died at other times from forced collectivization, the killing of the "non-progressive" classes, famine, blood purges and the conditions of the Gulag, the Russian acronym for the prison camp system.

However this conclusion offended the KGB less than the news that Mr. Dyadkin's paper had reached the West.

A LITERARY MEMORIAL

The exiled Alexander Solzhenitsyn, who has devoted himself to leaving a literary memorial to the victims of Soviet prison camps, had included its title in a list of documents he planned to publish in Russian. Mr. Dyadkin was arrested almost immediately after. Mr. Solzhenitsyn responded by calling on Western scholars to intervene. "With such methods of suppression," he wrote, "we shall never learn historical truth." Disappointed by the meager response, he released a copy of the *samizdat* exclusively to this newspaper, through the New York-based Center for Appeals for Freedom.

Although not a trained demographer, Mr. Dyadkin cites his considerable experience with applied mathematics. And remarkably, his paper, "Evaluation of Unnatural Deaths in the Population of the U.S.S.R., 1927–1958," is almost the only comprehensive study of the subject published in either the East or the West. Western demographers have not yet had access to the full document, but a portion dealing with World War II has appeared in the French scholarly journal "Cahiers du Monde Russe et Sovietique." Murray Feshbach, U.S. Census Bureau specialist in Soviet demographics, says that that fragment "looked like a very serious evaluation."

Mr. Dyadkin devotes much of his paper to explaining his own methodology because, he says, it is very difficult to see what methods the official Soviet demographers use to derive their figures. He charges that their work is in fact designed to mask the massive loss of life caused by governmental repression. Official tables consistently omit data for the years between 1929 and 1936, when repression in Russia was at its most lethal.

But the main shuffle, he writes, is to assume an average natural growth rate of 3.5 million at the end of the 1920s and then suddenly post a 2.5 million average for the 1930s. Since the net population growth is this natural birth rate minus the number of deaths, and this number has to be given with some accuracy, the government tried to hide the embarrassingly high number of deaths by lowering the figures for the actual birth rate. "It turns out, then," writes Mr. Dyadkin, "that the dynamics of the population cannot reflect forced collectivization, hunger, the Gulag and executions. But the magnitude of the loss is so great that no official effort to conceal it can succeed."

Much of Mr. Dyadkin's work depends on his own guess at the normal rate of growth, and he recognizes how much his choice can change the results. So he gives his estimates in ranges, sometimes with a variation of up to 50 percent, and he makes a point of choosing the more conservative conclusion.

For another approach, Mr. Dyadkin turns to the "question of the missing males." "At no time during the history of the U.S.S.R., including the current time," he writes, "did the percentage of men in the population achieve the proportion that existed during the Czarist period, 1897 to 1913. In 1913, in spite of the Russo-Japanese War and Revolution of 1905, this proportion stood at 49.7 percent." But subsequent troubles decimated the men. World War I and the Russian Civil War lowered the proportion by two full percentage points, so that in 1922 males were only 47.7 percent of the population.

Relative peace and Lenin's New Economic Policy (which tolerated private ownership) allowed a recovery; by 1926, males were up to 48.3 percent. Under normal conditions, this ratio should have improved even further, but the years 1929 to 1939 were far from normal; by 1939, the proportion of males had dropped back to 47.9 percent. But the real demographic disaster came in World War II, which pushed the male population below 44 percent. Only by 1976 had it risen as high as 46.4 percent.

Working with these figures, Mr. Dyadkin proceeds to estimate the casualties in the various periods of the terrible Stalinist years after 1929.

The first period, 1929 to 1936, is that of collectivization and "elimination of the classes," when Stalin took control with his version of Marxist economics. Though less famous than the subsequent Great Purge, this period was far more harrowing for the countryside. Kulaks, or the rich peasants, were exterminated wholesale with their families; whole regions suffered famines caused both by nature and the government. Mr. Dyadkin estimates deaths at more than 10 million men, women and children.

"I am afraid to present the upper limit," he adds, "but it is most probable that, according to the birth rate of 1937, and not the lowest of low birth rates for 1924 to 1939, that some 16 million perished."

In his second period, 1937 and 1938, the Great Purge had reached its peak. Millions

of Communist Party members and bureaucrats were summarily sent to the Gulag or execution. Some 1.4 million, plus or minus 0.2 million, died.

In the third period, 1939 and 1940, the purge continued and reached into the Red Army, which also suffered a less significant number of casualties from the Winter War with Finland. The total loss, says Mr. Dyadkin, was 1.8 million, plus or minus 0.2 million.

These last four years, he writes, account for much of the missing males up to World War II. "It is possible to say, in contrast to the years 1929 to 1936, when men and women died equally, that during the repression years of 1937 to 1940, mostly men were killed in labor camps and executions."

Yet the period which obsesses Mr. Dyadkin, and most Russians, is the unimaginably bloody struggle against Nazi Germany, the Great Patriotic War. The official casualty figure is 20 million, and it apparently derives from an off-the-cuff remark former Soviet Premier Khrushchev once made to the prime minister of Sweden. Western analysts have estimated 25 million; but Dyadkin derives a figure of 30 million, give or take a million. Of these deaths, some 20 million may have occurred in actual fighting. He says the rest or 10 million died through deprivation and the Gulag.

But an accurate total is probably unattainable. "Only if we can get casualty figures for every important military operation of the Soviet and German sides" he writes ". . . will it be possible to answer the question: At what price did the Soviet Union achieve victory? . . . On the scale of the casualties depends the answer, was this really a victory?"

DEMOGRAPHIC DEDUCTIONS

His final period, 1950 to 1954, is almost anticlimactic, but men were still dying in prison camps until the death of Stalin in 1953 brought about releases and rehabilitations. Mr. Dyadkin estimates the deaths at 450,000, plus or minus 150,000. This figure comes from his demographic deductions, and he works back from it to extrapolate an estimate of the total prison camp population. Assuming a high mortality rate in the camps, he puts the number of prisoners at 3 million; assuming a low mortality rate, he puts it at 6 million.

The end result is awesome. In the absence of war and repressions, estimates Mr. Dyadkin, the Soviet population would have reached 250 million by 1950, 20 years earlier than it actually did.

"Let us end on an optimistic note," he concludes in the ironic style of the dissidents. "After the 20th Party Congress [in which Khrushchev revealed the crimes of Stalin] we can observe a coincidence of the general and the natural mortality rate and its declining level. We can witness a slow diminishing of the birth rate. This shows that mass repressions have basically ceased and the material level of life in our country has increased above that level to which the population had become accustomed. The population has completely adapted itself to the existing governmental order. In this respect the new Soviet man has indeed been created.

"A small number of dissidents have ceased paying by their silence and forced ovations for the privilege of life outside of prison camps, and this leaves no trace in demographic tables.

"But here we also see positive movement. Now we know their number without the aid of demography; we even know their names."

TRAGEDY ON THE IDITAROD

Mr. STEVENS. Mr. President, on March 14, 1980, a well known Alaskan pilot, Captain Warren "Ace" Dodson, and three members of a Spanish television film crew died in an airplane crash 12 miles south of the Eskimo village of Shaktoolik, on the northwestern coast of Alaska.

They were filming the Iditarod Trail Sled Dog Race, an annual 1,200 mile marathon for man and dog across the Alaskan wilderness, for the award winning Spanish television program, Man and Earth.

Captain Dodson was the son of pioneer Alaskan avaitor, Jim Dodson. Considered by his peers to be one of the few "natural" pilots, Dodson and his father made significant contributions to the people of Alaska and the history of Alaskan aviation. In the days when there were few runways and less radio beacons, the Senior Dodson flew the mail, pregnant mothers and sick children, gold pokes, supplies, food, and all the necessities for life on the Alaskan frontier, often risking his life to do so. Growing up in this atmosphere, Ace Dodson did the same, flying first for Northern Consolidated and then Wien Air Alaska for over 20 years.

With Captain Dodson at the time of the crash were Spaniards Dr. Felix Rodriguez de la Fuentes and cameramen Teodoro Roa Garcia, and Alberto Mariano Huescar.

A world renowned naturalist, Dr. de la Fuentes explored the Earth as his friend and colleague Dr. Jacques Cousteau covered the sea. His award-winning television program, Man and Earth, had won the acclaim of Europe and his death came as a great shock for the continent, and especially his native Spain.

Cameramen Teodoro Roa Garcia and Alberto Mariano Huescar were an integral part of a crew that traveled the world with Dr. de la Fuentes. Away from their families and friends for months at a time, from the Hudson Bay to the African plains, these two men shared in the risk that is a documentary cameraman's life to capture the world for us all to see.

The 2 weeks that the Spaniards spent in Alaska endeared them to the people of our State. Their warmth and interest in the Alaskan people was felt from Anchorage to Nome. In fact, at the news of their deaths, the people of the Indian village of Ruby composed a letter to the families of the Spaniards and people traveled from up and down to Yukon River to sign it.

We wish to join the people of Ruby in expressing our condolences to the families of Captain Warren "Ace" Dodson, Dr. Felix Rodriguez de la Fuentes, Teodoro Roa Garcia, and Alberto Mariano Huescar. They contributed to the lives of all of us. All four were the best in their fields. All four died doing that which they knew and loved best. The people of the United States join the people of Spain in sharing this great loss.

LIBYA

Mr. HATCH. Mr. President, this morning, I spoke about Libya's leader Colonel Qaddafi and how his military adventures have been financed by Libyan oil sales. I have learned that the Carter administration is not without fault in this matter. It seems that Libya is number three in rank among those nations from which we import oil, following Saudi Arabia and Nigeria. Now we might ask ourselves why this is so. Why are our major oil companies buying so much oil from a country the leader of which is dedicated to undermining our national interest? There is no sinister answer, Mr. President. The reason is simple. And the reason is not cheaper prices, or any special discounts.

The reason is that the Colonel's oil is better. It is lower in sulfur content and it is lighter in weight. That means it is cheaper to refine. That means the Colonel s oil is preferable to a lot of other countries which pursue foreign policies more to our liking, but whose oil costs more to refine, like Venezuela. Mr. President, I checked into the question of why we do not buy oil that is a little bit higher in sulfur content and a little bit heavier, just to reduce our relationship with the Colonel.

I was surprised at what I learned. It seems, Mr. President, that our oil companies could indeed refine that kind of oil. We do not have to buy Libyan oil. Except for one thing. The so-called COWPS guidelines, the Council on Wage and Price Stability under the distinguished Mr. Kahn, do not give the oil companies any incentive to invest in oil refinery improvements that would permit processing lower quality crude oil. If COWPS had considered this factor, the companies could have invested in refinery improvements, passing through the costs, and we could have bought less Libyan oil, I hope Mr. Kahn will bear this in mind as he evaluates the draft guidelines for the third-year program.

I understand this factor was "overlooked" last time. I do not know why it was overlooked. Frankly, with this administration, we may find out that Billy Carter has been calling the people at COWPS, too.

THE NEED FOR ARMS CONTROL

Mr. PERCY. Mr. President, yesterday a number of our colleagues spoke on the need, in fact the urgency, to move ahead to Senate consideration of the SALT II treaty. They suggested that, if the treaty could not be considered before the election, it should be brought before a special session following the election or at least as the first order of business next January.

I share the sincere interest in arms control expressed by our colleagues, and last month I went to Geneva to serve as a senatorial adviser to the U.S. delegation to the U.N. Committee on Disarmament, which afforded me the opportunity to discuss arms control issues with the representatives of the Soviet Union, China, India, and many other countries.

I am a firm believer in the arms control process, just as I am a firm believer in a strong U.S. Defense Establishment. Both arms control and defense are important to our national security. Our national security posture depends on the

correlation of forces between our potential adversaries and ourselves. If there are not mutual arms restraints, there will be an accelerated race of increasing armament on all sides with grave dangers to the security of all.

However, no matter how desirable it may be to ratify SALT II and proceed to the negotiation of SALT III, I believe it would be a disservice to the arms control process to bring the SALT II treaty to Senate debate and a vote before the Senate can reasonably be expected to ratify the treaty. To defeat SALT II would certainly not help the arms control process.

SALT II simply cannot succeed in the Senate at a time when Soviet forces continue to ravage the innocent people of Afghanistan. The problem is not with the arms control process. Both advocates and opponents of SALT II argued strongly during the consideration of SALT II in the hearings of the Senate Committee on Foreign Relations that SALT II in fact did not go far enough in reducing armaments. Senator HELMS, an opponent of the treaty, said last November "There is no logical reason that comes to the mind of this Senator why we do not say now let us embark on a true arms reduction treaty and take it to the court of world opinion."

Likewise, the stalling of SALT II in the Senate is not the fault of the Senate. We had already cleared the schedule for early consideration of SALT II this year. It was the Soviet aggression against Afghanistan which prompted the Senate to delay consideration of the treaty. There was no way we could proceed to floor consideration of SALT II when Soviet forces poured into Afghanistan. The responsibility for the stalling of SALT II lies squarely with the leadership of the Soviet Union who decided that occupying Afghanistan was more important to them than immediate consideration of the treaty.

I recognize and acknowledge the desirability of dealing with SALT II before the treaty requires changes dictated by its deadlines for actions by both parties. However, we cannot deal with the treaty until either the Soviet Union withdraws its forces from Afghanistan or until we have strengthened our own defense establishment and firmly emplaced our deterrent forces in the Persian Gulf region.

WILLIAM A. PATTERSON

Mr. PERCY. Mr. President, on June 13, 1980, William A Patterson, who together with his beloved wife Vera had been my friend for over 30 years, passed on in Glenview, Ill. at the age of 80. As a director of Bell and Howell Co., I have seen his ability to immensely contribute to the spirit, heart and financial well-being of a corporation. He had a vital role in the founding of United Airlines and through the years I have seen how he gradually built United Airlines until it grew and developed into the world's largest commercial air carrier. He has been looked upon as one of the principal figures in the Nation's air transport industry for over 40 years.

Mr. Patterson's rise in commercial aviation is the classic success story of modest beginnings and ascent to corporate leadership. He was born October 1, 1899, in Honolulu, son of Mary and William Patterson. His father, overseer of a sugar plantation at Waipahu near Honolulu, died when the youngster was 8.

Billy, as young Patterson was then called, was enrolled at a Honolulu military academy at 14. His mother moved to San Francisco, and he ran away from school to join her on the Mainland. At 15 he went to work as an office boy at the Wells Fargo Bank, San Francisco, where he earned $25 a month.

The future airline president attended night school regularly and advanced from office boy to paying teller at the bank. Eventually he was named assistant to the vice president in charge of new accounts. In that position he recommended a loan for Pacific Air Transport, pioneer airline on the Los Angeles-San Francisco-Seattle route.

Young Patterson was placed in charge of the airline account. His skill in handling Pacific Air Transport financing brought him to the attention of Philip G. Johnson, president of the Boeing Airplane Co. and Boeing Air Transport. Boeing Air Transport was the first airline to operate between San Francisco and Chicago. In 1929 Johnson offered Patterson a post as his assistant at Seattle.

Patterson joined Boeing at a time when the company was piecing together a coast-to-coast airline system. The routes of three other airlines were joined with Boeing Air Transport to form United Airlines. As United's general manager, Patterson moved to Chicago in 1931 to establish the company's headquarters.

In 1933 Patterson became a vice president of United, and in April of the following year, at the age of 34, he was elected president. United at that time had 1,400 employees stationed across a 2,600-mile system. Under his guidance, the company grew into the world's largest commercial air carrier.

Throughout his career, Patterson pushed for service innovations, greater safety and improved technology. While at Boeing in 1930 he approved the suggestion to have female attendants on flights, thus contributing to the start of stewardess service.

One of his early decisions as United's president was to institute a guaranteed monthly minimum pay scale of $650 for pilots. Under the previous system, pilots were paid on the basis of miles flown during the month. The new system supported a pilot's judgment in electing not to fly when weather conditions were marginal.

In the late 1930's Patterson assigned an engineer to draw up specifications for a "super" airliner. This interest later resulted in joint airline support of a development program by the Douglas Aircraft Co. and construction of a prototype DC–4. Orders were placed, but World War II intervened and the new plane was modified for military operations. The DC–4 finally was placed in commercial service in 1946.

Patterson's interest in technological progress led to his early recognition of jet superiority over piston-engine aircraft. United was the first major U.S. airline to commit for jet planes. The company ordered 30 DC–8's in October 1955. Eventually, Patterson signed orders for more than $1 billion worth of jet equipment.

In 1960–61 Patterson presided over the merger of Capital Airlines into United. The move is now regarded as a textbook model of airline amalgamation. With the addition of Capital's system, United became the world's largest airline.

Patterson has received many honors and citations for his civic activities and business accomplishments. He is a life trustee of Northwestern University, Evanston, Ill.; Presbyterian-St. Luke's Hospital, Chicago; and the Museum of Science and Industry, Chicago.

He received the Monsanto Aviation Safety Award, the Aerospace Medical Association Award, the Elder Statesman of Aviation Award from the National Aeronautic Association, and the Achievement Award of the National Aviation Club.

He also received Seattle University's National Award for Economic Statesmanship, the Horatio Alger Award, the Good Scout Award of the Boy Scouts of America, and the Order of Lincoln conferred by the Lincoln Academy of Illinois. In 1968, he received the Tony Janus Award for outstanding contribution to air transportation.

In 1973, he was inducted into the Illinois Business Hall of Fame and in July 1976, was inducted into the Aviation Hall of Fame at Dayton, Ohio. In December 1976, he received the coveted Wright Brothers Memorial Trophy administered by the National Aeronautic Association for "significant public service of enduring value to aviation in the United States."

In 1980, Fortune magazine's board of editors named Patterson to the Junior Achievement Hall of Fame for Business Leadership.

Patterson's efforts in behalf of education have been recognized with honorary degrees which include Doctor of Law, Hastings College; Doctor of Law, University of Miami; and Doctor of Humane Letters, College of St. Mary's.

A Distinguished Chair in Transportation has been established in Patterson's name at the Northwestern University Transportation Center, Evanston, Ill. Establishment of the $1.25-million Patterson Chair will fund major new research on key transportation problems confronting the Nation. Patterson was instrumental in establishing the Transportation Center in 1954, and he served as a member of its business advisory committee.

To his wonderful wife and companion for 57 years, to their two children, William Allen, Jr. and Patricia P. Kennedy, and six grandchildren, I can only say that all of you who shared in giving "Pat" happiness and the inspiration to continue his remarkable life of service, our undying gratitude.

At the funeral service, Dr. George J.

Kidera, M.D., gave the eulogy in words that eloquently express our feelings about Pat Patterson.

I ask unanimous consent that the text of the eulogy and two United Airlines news releases be printed in the RECORD.

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

WILLIAM ALAN PATTERSON—PAT

Husband, Father, Grandfather, Motivator, Innovator, decisionmaker, business strategist, humanitarian. A man of courage and conviction with great faith in the free enterprise system. An executive who ran his business and personal life on the highest plane of morality.

There is a light within all of us. It determines what we do, how we do it, how we accept success and how we meet adversity. This inner light is important to one's personality but it also is important as to its effect as it touches others. . . . Pat's inner light touched everyone who had been privileged to work with and for him and those he knew socially.

Pat was an achiever and a leader. His every endeavor found him on the first team going back as far as his teens, playing catcher on a San Francisco baseball team.

Pat was a man of great courage. He never backed away from a decision responsibility. In fact, I think he thrived on momentous decisions. His perspicuity and judgment calls had a significant effect on his guidance of United Airlines from its precarious birth in 1933 to its status as the largest airline in the world. But Pat always said he was not interested in United being the biggest in the world—he wanted us to be the best in the world.

His courage could be scathing when taking on giants . . . like the Civil Aeronautics Board—when he believed them to be wrong.

He was a man whose principles could not be compromised. Pat would always stand up and be counted—even at times when he was a lone voice in the industry.

In spite of his individuality, he had abiding respect for other people's opinions.

Pat was a master in the art of communication because he spoke from the heart.

He held reading a speech in disdain. Without a note or script, he could deliver an eloquent speech. His sincerity held his audience.

Pat, in spite of his recognized achievements, accolades and awards was a man of deep humility. On an occasion of receiving one of his most prestigious awards he closed his acceptance speech by saying—

"The greatest danger always in receiving an honor is for one to develop in his own mind an agreement with those who might have selected him. I appreciate your judgment but I want to express my gratitude for all those deficiencies I know you must have overlooked."

Pat was dedicated to aviation safety. His guidance and leadership developed aviation safety technology in United. He freely shared this technology. I can recall Pat saying, "Safety is not something to be patented for anybody's exclusive use."

Pat was a natural born teacher in the practical, not the academic, sense. He had great empathy for anyone trying to learn. He knew what went on in the hearts and minds of people fighting for existence. . . . because he'd been through his experiences, he could put himself in the other fellow's boots. He had an uncanny ability in assessing human potential. When his counsel was sought, he used this ability to provide encouragement, a word of caution or criticism. If criticism was offered, it was always constructive and had the desired effect of training the neophyte to think things through. Little wonder that his counsel and words of wisdom were so frequently sought.

Pat was a firm believer in individualism and our free enterprise system, but he left behind a word of caution. He said, "Individualism thrives best in an atmosphere of freedom such as we have in this country. There are controls, but our system of competitive enterprise offers ample latitude for achievement. You who inherit this system are its trustees. It will be in your custody to improve or impair. Do not supply government with reasons to go beyond its proper areas."

Pat was a people person. He successfully built employee enthusiasm by developing a genuine interest in his people—a term he preferred. The camaraderie he built up was exemplified by the way he was greeted systemwide—"Hello Pat." He said that he always considered it a cherished tribute that people on all levels called him by his first name. Pat was annoyed by the attitude of importance that came over some men when they became top executives.

Pat would always support his people when the chips were down. Several years ago, a child of one of our Seattle employees was scheduled for a tonsilectomy. The morning of surgery at 8 a.m., Pat called inquiring as to how the child fared in surgery. I had to remind Pat that it was only 6 a.m. in Seattle and surgery was at 8 a.m. He said, "OK, but call me as soon as you hear anything." His concern for the well being of family was the same whether it was a tonsilectomy in Seattle or a case of polio in New Jersey.

About six years ago, Pat suffered his first big stroke while in Borrego Springs. For ten days he was hospitalized in San Diego in a semi-conscious state. Vera and I thought it advisable to bring him to Chicago where the doctors more familiar with his other medical conditions could look after him.

Arrangements were made on one of United's regular flights using our stretcher capability. I accompanied the flight. Shortly after takeoff, I heard Pat's voice: "George, what kind of aircraft is this?" I replied, "A Boeing, Pat." "Do they make good airplanes?" I said, "You ought to know—you bought them." In about ten minutes he asked, "Am I in one of those stretchers we developed?" I replied, "Yes, Pat." Pat asked, "How much room does it take?" "Two rows of seats." Pat: "How's the load? Are we displacing any revenue passengers?"

Here was a man who had not uttered a rational sentence in ten days.

These two instances typify Pat's two true concerns—the people of United Airlines and the finances of United Airlines.

Motivator, innovator, decision maker, business strategist, humanitarian.

He once said, "You have an idea? Hang onto it! It's the most valuable thing in the world. Nurture it. Test it. And remember: You can grow a toadstool overnight, but it takes time to grow an oak."

And then he added, "I was engaged in what I believe to be the most thrilling industry in the world—aviation. My heart still leaps when I see a tiny two-seater plane soaring gracefully through the sky. Our great airlines awe me. Yet I know they were not produced in a day or a decade." . . . "It may take years to put your idea into action. But if it has real worth, time will prove it . . . and you will have something that will endure."

The legend of Pat is no fluke—It was the man that made it all possible. . . .

Pat left something that will endure. It will endure in our minds and it will endure in our hearts. Thanks, Pat, and Aloha.

WILLIAM A. PATTERSON IS DEAD AT 80

William A. Patterson, the man who built United into the World's largest commercial air carrier, died this morning at Glenbrook Hospital at Glenview, Illinois. Patterson was 80.

Patterson, director emeritus and honorary chairman of UAL, Inc. and United, was a central figure in the nation's air transport industry for four decades. He served as United's president for 29 years before his election as chairman of the board in 1963. Patterson retired from the board in 1966 but remained active for several years as a consultant for the company.

Under Pat Patterson's guidance and leadership, United grew from a fledgling airline into the world's largest commercial air carrier. Patterson engineered the merger of United and Capital Airlines. The move is regarded as a text-book model of airline amalgamation.

Perhaps Pat Patterson's greatest accomplishment was keeping United in business after the U.S. government in 1934 cancelled all air mail contracts. United was dependent upon mail revenue for 45 percent of its income. Patterson kept the airline flying and built it into a successful operation.

Pat Patterson received many honors for his civic activities and business accomplishments. He receive the coveted Wright Brothers Memorial Trophy for "significant public service of enduring value to aviation in the United States." He was named to the Aviation Hall of Fame, the Junior Achievement Hall of Fame and received the Horatio Alger Award and Good Scout Award of the Boy Scouts of America.

Patterson's efforts in behalf of education were recognized with several honorary degrees.

A distinguished chair in transportation was established in Patterson's name at Northwestern University Transportation Center.

Patterson is survived by his wife, Vera, two children, William Jr. and Patricia Kennedy, and six grandchildren.

Visitation will be on Sunday, June 15, 2–5 p.m., at Scott Funeral Home, 1100 Greenleaf Avenue, Wilmette, Illinois. Funeral services will be held on Monday, June 16, 3:30 p.m., at Alice Millar Chapel, Northwestern University, 1870 Sheridan Road, Evanston, Illinois. Donations may be made to the W. A. Patterson Distinguished Chair in Transportation, Northwestern University, 2001 Sheridan Road, Evanston, Illinois 60201.

WILLIAM A. PATTERSON

William Allan Patterson, director emeritus and honorary chairman of UAL, Inc., and United Airlines, has been a central figure in the nation's air transport industry for four decades.

Mr. Patterson served as United's president for 29 years before his election as chairman of the board in 1963. He retired from the board in 1966 but remained active for several years as a consultant for the company. A long-time resident of the Chicago area, he lives in suburban Wilmette and maintains a winter home at Palm Desert, California.

Mr. Patterson's rise in commercial aviation is the classic success story of modest beginnings and ascent to corporate leadership. He was born October 1, 1899, in Honolulu, son of Mary and William Patterson. His father, overseer of a sugar plantation at Waipahu near Honolulu, died when the youngster was 8.

Billy, as young Patterson was then called, was enrolled at a Honolulu military academy at 14. His mother moved to San Francisco, and he ran away from school to join her on the Mainland. At 15 he went to work as an office boy at the Wells Fargo Bank, San Francisco, where he earned $25 a month.

The future airline president attended night school regularly and advanced from office boy to paying teller at the bank. Eventually he was named assistant to the vice president in charge of new accounts. In that position he

recommended a loan for Pacific Air Transport, pioneer airline on the Los Angeles-San Francisco-Seattle route.

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A Distinguished Chair in Transportation has been established in Patterson's name at the Northwestern University Transportation Center (Evanston, Ill.). Establishment of the $1.25-million Patterson Chair will fund major new research on key transportation problems confronting the nation. Patterson was instrumental in establishing the Transportation Center in 1954, and he served as a member of its business advisory committee.

Patterson married Vera Anita Witt of Berkeley, Calif., in June, 1923. They have two children, William Allan, Jr. and Patricia P. Kennedy, and six grandchildren.

JULIAN LEVI

Mr. PERCY. Mr. President, Julian Levi served as chairman of the Chicago Planning Commission since 1976, has been considered one of the outstanding national experts on urban America, and for more than a quarter of a century served as executive director of the Southeast Chicago Commission which saved the South Side communities of Hyde Park and Kenwood, thereby saving one of the world's greatest institutions of higher education, the University of Chicago.

Julian Levi at age 70 is now joining the faculty of Hastings College of Law at the University of California at San Francisco. He took a parting shot at the city that he had loved and worked in for so many decades. I felt privileged to have lived and worked with Julian Levi and have, together with him, loved the City of Chicago, the University of Chicago and have admired through the years what he has done for both great institutions. John McCarron tells about it in a Chicago Tribune article dated June 15 and I ask unanimous consent that the article be printed in the RECORD.

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

JULIAN LEVI'S PARTING SHOT: WORRIED ABOUT CHICAGO

(By John McCarron)

When Author Nelson Algree left Chicago for New Jersey a few years ago, he complained that his native city had become "a huge bore."

This spring, another famous Chicagoan is leaving town. But the things Julian H. Levi has to say about Chicago sound more like fatherly advice than parting shots.

"Chicago is always going to be my kind of town," he told an interview. "But I worry about the city. It seems to have lost the most important thing it had, and that thing is stability."

Stability, and how to get it, have been lifelong pursuits for Levi.

He is the older brother of Edward H. Levi, past president of the University of Chicago and former United States attorney general. Like his brother, he is a student of the law, but he is also a national expert on urban problems, especially the problem of stabilizing racially changing neighborhoods.

Twenty-eight years ago he undertook and shepherded to completion, one of the most ambitious urban renewal efforts ever attempted in an American city.

Its purpose was to prevent the South Side communities of Hyde Park and Kenwood from being absorbed into a fast-encroaching black slum. More specifically, cynics insist, it was to prevent the University of Chicago from being absorbed.

At the time, edgy college administrators were laying plans to move the campus to the shores of Lake Geneva, Wis.

Instead, college President Lawrence Kempton and the board of trustees set up a community-service organization called the South East Chicago Commission [SECC]. And they chose Levi, an alumnus and successful attorney, to run it as executive director.

His mission was as simple as it must have seemed impossible: Turn the tide and make Hyde Park a stable, racially integrated neighborhood.

And that is essentially what Levi and his group did, but not without angering hordes of slumlords and tenants whose buildings were demolished and a few civil rights leaders who branded his efforts a naked, self-serving land grab by the university.

Levi's public demeanor has been likened, by admirers, to that of a Supreme Court justice. Detractors call it arrogance. He calls it a healthy display of willpower.

"Unlike some, I don't claim to have all the civic virtues between my right and left ears," he shot back at an inquiry about his way with words. Delivered in his half-scolding, gravelly voice, the retort was pure Levi—argumentative and eminently quotable.

Whatever one chooses to call it, Levi's manner and his success in Hyde Park won the friendship and respect of former Mayor Richard J. Daley, who appointed him chairman of the Chicago Planning Commission in 1974.

His stewardship of that body came to an end last year with the election of Mayor Byrne, who already replaced Levi with her family attorney.

[And last Friday she replaced her family attorney, George J. Cullen, with yet another plan commission chairman—Miles L. Berger, a prominent real estate appraiser.]

Levi is stepping down from leadership at the SECC and from his urban studies professorship at the U. of C. At age 70, he is beginning a twilight teaching career at the Hastings College of Law of the University of California at San Francisco.

He said he's not going away angry.

"It's about time the good young people around here ran the show," he said, waving a hand at the cluttered SECC office on the second floor of the YMCA on 53d Street. "It's important that I get out of the way."

Michael J. Murphy, a former assistant U.S. attorney and a counsel to the SECC, is taking over as executive director.

"And this program in San Francisco will really be a challenge," he said. "They call it the Sixty-Five Club. It's a group of professors who have reached retirement age elsewhere. You should see the faculty list; it's full of former law school deans."

Besides teaching, Levi will show his employers a thing or two about university-community relations. He already has helped Hastings acquire a rundown hotel on the edge of what he calls San Francisco's "tenderloin district" for use as a college dormitory.

But what of Chicago, and what of Hyde Park where he and his wife Marjorie, have

lived in the same house on Woodlawn Avenue for 40 years?

"As I look back I can make a good catalog of my mistakes," he said. "But we were out on the frontier in Hyde Park. When we started, most people said it was hopeless, that you couldn't have a stable interracial community. We proved you can."

They did it by piecing together a partnership, including the university, the city, and new federal urban-renewal programs.

Levi recalls that the college wanted to give the city $14 million which could be used to obtain another $42 million from Washington. The money was needed to buy slum property around the university, clear it, and build new housing, stores, and other improvements.

There was no federal law on the books to allow such a "gift" by the school, so Levi spearheaded a lobbying effort on Capitol Hill to pass one.

"The chairman of the congressional committee was from Kentucky," Levi recalled with relish. "So we led off our testimony with a statement by the president of the University of Louisville. He started talking and you just could hear the bourbon aging in the cask. We got the law passed."

Indeed, enactment of Sec. 112, an amendment to the Federal Housing Act of 1949, was the key to rebuilding Hyde Park.

Levi's political acumen was not lost on Mayor Daley.

"After we got 112 he began calling me up," Levi recalled, "asking me about this and that."

Levi made no apologies about urban renewal in Hyde Park.

"Of course, there was hardship worked on poor blacks," he said. "That's who was living in the buildings that had to come down. And no, we didn't replace these buildings with enough public housing. We got some, but not enough.

"What we did do was create an integrated neighborhood where middle-class blacks and whites can live together.

"To do that we had to tell people living in big homes that they couldn't stay if the only way they could afford it was by cutting it up into a rooming house.

"If we hadn't done that, Hyde Park would be an extension of the black low-income ghetto. And who would that have served? Nobody but the slumlords."

He said his tenure with the plan commission was a mixed bag of successes and disappointments.

"The main thing I set out to do at the commission—to open it up to the public—we accomplished. We stopped some too-dense high rises on the lakefront, and for a time we stopped construction of a permanent band shell in Grant Park." (Levi always favored a performing arts garden on railroad land north of the present bandshell.)

He counts the city's approval of an overly dense Illinois Center office building complex as his worst "dropped ball."

"But the commission is a group of unpaid citizens who don't have all the details they should," he said. "They are prisoners of the reports given them by the city's Department of Planning."

And what of Mayor Byrne?

"All these shifts and shunts of people at City Hall have made people in government constantly frightened," he said of the Byrne administration.

"Dick Daley wasn't worried about the next election. But that's all she's worried about. With her, it's a problem of whom do you trust, and she doesn't trust anyone outside of a small circle of friends and relatives. You can't run a government that way.

"The greatest thing this city had going for it was stability. You could get things done here. There was a willingness by the private sector to step in and solve problems. You don't see that any more."

As for the future of Chicago, Levi said the city "has an uphill fight on its hands."

"The most serious problem is this," Levi said, and he reached into his desk and pulled out a report of a recent survey of prominent scientists. They had been asked to pick one of 10 listed cities where the federal government should build its central energy research facility. Chicago ranked last on their list.

"This has got to be turned around," Levi said in an uncharacteristic whisper, "and it will take an enormous act of will by a lot of people to do it.

"We have got to figure out a way to stop abandoning city neighborhoods so we can always be building somewhere else. Maybe we showed how you do that in Hyde Park."

CORPORATE PROFITS: PART III REGULATORY REFORM

Mr. PERCY. Mr. President, a healthy corporate profit is a pillar of our economic system. Chicago radio station WBBM has recognized the importance profits play in our standard of living and in job creation. Recently it produced and aired a series on corporate profits that I have been sharing with my colleagues the past week.

The third WBBM editorial touched on an important economic point: Compliance with Federal regulations consumes a large part of the earnings of many businesses. The Business Roundtable undertook a study of the incremental costs of some Federal regulations and reported their results last year. The Roundtable study was limited to 48 companies that participated. Furthermore, the regulatory costs of only six Federal regulatory agencies and programs were analyzed.

The Roundtable found that for these participating manufacturing companies alone, there was an incremental regulatory cost of $2.3 billion. This was nearly one-fifth of the net income—after taxes—of these manufacturing firms. It was nearly half their total research and development costs. The Roundtable concluded:

> Some regulations have resulted in the imposition of large cost burdens on the private sector and ultimately on the U.S. economy. Business, government and other interested groups have seriously questioned whether the costs of meeting regulatory objectives are excessive and have also stated that they believe alternate, less costly methods could be employed to achieve desired goals.

The Roundtable study was a major contribution to the congressional effort to reform the regulatory process. The Senate Governmental Affairs Committee, on which I serve as ranking Republican, began work on sweeping regulatory reform legislation well over a year ago. In April of this year we reported a bill, S. 262, that for the first time will spell out a code of behavior for the entire Federal regulatory establishment. One of our chief goals has been to write legislation that will require agencies to consider the economic costs of proposed regulations. I have been working to bring this bill to the floor for a vote because it is one of the most important steps we can take to help the economy over the longrun.

Mr. President, I ask unanimous consent that the WBBM editorial on corporate profits be printed in the RECORD.

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

CORPORATE PROFIT: THE CAUSE AND EFFECT

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? The controversy—as explained by most of the businessmen, corporate executives and economic experts interviewed for these series of reports—revolves around a growing misconception on the part of the American public of exactly what profits are, where they come from, and what they are used for. Exxon Board Chairman Clifford Garvin explains: that while his corporation—which is the world's largest in sales and profits—earned $1.92 billion over the first quarter of the year—the actual return to the company on every dollar spent was only about five cents. . . .

Actuality/Garvin: "If people can get their hands around five cents on every dollar, it's a lot easier than worrying about whether Exxon made 4 billion dollars last year. That four billion dollars earned a return to the shareholders of about 20 per cent. And my submission is that that's not particularly excessive. There are many industries with large capital requirements that do better than 20 per cent."

The fact is that all major companies reinvest a substantial percentage of their net earnings from sales into new factories and equipment. It is also a fact that a large percentage of the earnings a company makes are eaten up by inflation, depreciation and efforts to comply with tightening government regulations. It is also important to note that companies have bad quarters and good quarters, good years and bad years—as far as profits are concerned. So as Professor Houston Stokes of the College of Business Administration at the University of Illinois explains—the percent of decrease in a company's profits from one quarter to the next, from one year to the next, can be very misleading. . . .

Actuality/Stokes: "When you calculate profit, what you're basically calculating is your return on capital. In other words, if you have a hundred dollars worth of capital and you make—after all your deductions for cost—you make ten dollars, that's a ten percent return on capital and that ten dollars you make could be a hundred percent increase in the profits you made last year if you made five dollars. If you made five dollars of that last year on a basis of a hundred dollars worth of capital, and your profits now were ten dollars this year on a hundred dollars worth of capital, your percent increase in profits was a hundred percent—but your rate of profit on your capital is only ten percent.

"And that's a very important distinction especially in terms of the oil companies because profit increases have been large and the amount of profit that has gone up have been large—but the percent increase is overstated if they had a bad year the year before. It's very important that the public understands the difference."

Profits are indeed necessary to encourage people to invest in various companies—the profit motive being the primary motivating factor which causes most people to risk their money. But aside from benefiting the stockholders or investors—profits are also necessary for the stability and continued growth of the nation's economy—according to former Treasury Secretary William Simon. . . .

Actuality/Simon: "Profits are necessary for a growing economy to provide greater jobs and upward mobility for all of our citizens—and most especially the citizens that are presently being denied due to the insidious inflation—the ability to enter into the free

enterprise system . . . the blacks and the other disadvantaged . . . and if we don't make sure that this system is open to all of those people, we can kiss our freedom for America good-bye. And that is the crux of the whole problem today."

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? The attempt in this report has been to explain where profits come from and where they go. Our next attempt will be to explain how various external forces affect profits. With production assistance from Denise Hines—I'm Keith Bromery.

HANS MORGENTHAU

Mr. PERCY. Mr. President, the very able and distinguished Dr. Robert E. Osgood, director of research at the Johns Hopkins Foreign Policy Institute in Washington, D.C., has written a brief fascinating critique of the ideas and writings of Hans Morgenthau, one of our great political scientists who recently died at the age of 76.

Morgenthau, whom I knew for many years, taught at the University of Chicago from 1944 to 1961 and was the founder and director of its Center for the Study of American Foreign and Military Policy. He was an active participant in the University of Chicago Public Affairs Conference Center activities under the direction of Dr. Robert Baldwin, now a resident scholar and director of "A Decade of Study of the Constitution" American Enterprise Institute.

Dr. Osgood's critique appeared in the Chicago Tribune. I request unanimous consent that it be printed in the RECORD at this point.

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

HANS MORGENTHAU'S FOREIGN POLICY IMPACT

(By Robert E. Osgood)

In the death of Hans Morgenthau this nation has lost an outstanding figure in the intellectual history of its foreign policy. In articulating the call to Americans to come to terms with the realistic management of power on the international stage, he left a lasting impact on a generation of scholars and statesmen.

In his philosophical works, notably "Scientific Man and Power Politics," his teaching at the University of Chicago and elsewhere, his dominant textbook "Politics Among Nations," and his countless speeches, essays, and books on American foreign policy he expounded the gospel of Realpolitik and exorcized the moralistic illusions nurtured during the nation's long isolation from the mainstream of international politics.

Those who charged that his message excluded morality from international relations missed the point. He felt deeply and wrote eloquently about the ideals embedded in the founding of this country. "In order to be worthy of our lasting sympathy," he wrote in "The Purpose of American Politics," "a nation must pursue its interests for the sake of a transcendent purpose that gives meaning to the day-to-day operations of its foreign policy." But in the anarchical world of states, he insisted, moral sentimentality and self-righteousness are the enemies of true moral purpose.

The moral dignity of the national interest, he argued, lies in the responsible use of power in full recognition that moral satisfaction seldom perfectly coincides with the imperatives of national security.

He never made the point more profoundly than in "Scientific Man and Power Politics," the early essay in political philosophy that he sometimes called his best work:

"Neither science nor ethics can resolve the conflict between politics and ethics into harmony. We have no choice between power and the common good. To act successfully, that is, according to the rules of the political art, is political wisdom. To know with despair that the political act is inevitably evil, and to act nevertheless, is moral courage. To choose among several expedient actions the least evil one is moral judgment. In the combination of political wisdom, moral courage, and moral judgment, man reconciles his political nature with his moral destiny."

This was a tough message for Americans to absorb. As Morgenthau expressed it, without embellishment, it shocked and irritated a good many orthodox spokesmen and analysts and touched off a "great debate" of sorts in the early post-war years. Although it seemed to become part of the new orthodoxy as the Cold War matured, this appearance was as much the result of a temporary coincidence of policy with concept as of a fundamental transformation of thinking.

When applied against the crusading rhetoric of anticommunism, the misuses of military power and alliances in the Third World, or the naive formulas for containing revolutions. Morgenthau's realism provide both its integrity and its basic tension with the American ethos.

Many will favorably remember Morgenthau's opposition to America's pursuit of the war in Viet Nam. They should also remember that, on this issue as on others, he refuted the premises of his polemical allies by rejecting their moral pretensions and defining the national interest in terms of the realities of power.

Hans Morgenthau was more of a critic than a prophet, but he was a critic inspired by a mission that is never fulfilled. The reason it is never fulfilled is, on the one hand, that the United States, as he often observed, remains exceptional among nations in the extent to which its citizens insist upon condemning or justifying its actions according to moral principles inseparable from its national identity.

On the other hand, the country has acquired the unexpected and, in a way, unwanted task of managing power in an environment that is inhospitable to these principles. The resulting tension between moral preferences and the imperatives of power, as recent shifts of policy of a self-consciously righteous administration show, guarantees the enduring relevance of Morgenthau's mission.

If it is true that this nation is now overcoming the paralyzing effects of the "Viet Nam syndrome," it is not so clear that we have learned the realist's lesson of attending to the balance of power while keeping power in balance with interests.

Nor is it clear that we have overcome our inveterate national habit of oscillating between the neglect and affirmation of power as we rediscover the gap between our interests and power in each successive crisis.

What is painfully clear in the aftermath of recently dashed hopes of an emergent international system congenial to our moral preferences—one in which the Cold War would recede and we would find ourselves dealing with the "global agenda" on the right side of social and economic change—is that we need the kind of steady, enlightened *Realpolitik* to which Hans Morgenthau dedicated his life in this, his adopted country.

IRS MUST REJOIN THE FIGHT AGAINST ORGANIZED CRIME AND ILLEGAL DRUG PROFITS

Mr. PERCY. Mr. President, the Senate Permanent Subcommittee on Investigations, of which Senator SAM NUNN is chairman and I am ranking minority member, has just recently filed its comprehensive report, "Illegal Narcotics Profits." The report summarizes the subcommittee's extensive investigation of the astounding profits being made by big-time narcotics traffickers and the diminishing role that the Internal Revenue Service has played in recent years in investigating these criminals.

Last December, the subcommittee held 5 days of hearings on illegal narcotics profits and found that in 1978 some $44 to $63 billion flowed through the hands of high-level illicit drug traders. The subcommittee also found that the key to convicting these sophisticated drug profiteers lies in the profits they make for they are vulnerable only to the most complex and detailed financial investigations.

Al Capone, one of the Nation's notorious gangsters, was a case in point. For years, some of the most able and determined prosecutors in the land tried and failed to convict him. Only the IRS, after years of painstaking financial investigation, was able to send the feared Capone to jail.

Yet, the IRS, once the agency that the criminal kingpins feared the most, has been virtually eliminated from the fight against organized crime. For instance, between 1974 and 1979, the amount of IRS staff time devoted to criminal investigations was drastically reduced. An equally important factor contributing to the shift by IRS away from criminal investigations was the enactment of the Tax Reform Act of 1976 in response to revelations of widespread unauthorized use of tax returns. The act strictly limited the IRS' ability to divulge tax-related information to outside agencies.

Unfortunately, the Tax Reform Act, although well-intentioned, has placed an unnecessary handicap on the IRS. The evidence to date demonstrates that the law has been too effective in limiting the transfer of information; it has practically put an end to cooperation between IRS and other law enforcement agencies. Nevertheless, we must not, and will not, abandon those important protections intended to insure the confidentiality of the tax return and the constitutional right of privacy. But, we must move vigorously to remove any unnecessary handicaps to effective law enforcement by making refinements in the existing law.

This past June, I testified before the Senate Finance Committee in support of four bills introduced by Senator NUNN, chairman of the subcommittee. These measures, S. 2402, S. 2403, S. 2404, S. 2405, of which I am principal cosponsor, would amend the Disclosure and Settlements Divisions of the Tax Reform Act. They are essential to restoring the Federal Government's ability to combat organized crime.

In cosponsoring this legislation, however, I had several reservations about certain provisions, such as that which determines when a government attorney must seek a court order to acquire information in IRS hands. While I have not fully made up my mind on this particular issue, I am inclined to agree with the GAO, the American Civil Liberties Union

and others that both individual and corporate books and records should be disclosed only upon obtaining a court order. We must make certain that taxpayer information supplied to IRS remains confidential except where a specific showing of need in an investigation of a crime can be made. I am not yet convinced that we should allow disclosures of this kind without judicial review. On balance, however, I believe that these measures are well-targeted proposals vital to our Nation's efforts to eradicate organized crime.

We cannot continue to fight organized crime with one hand tied behind our backs. One of the most effective weapons we have in deterring and punishing organized criminals is a front-page headline announcing that IRS has obtained the conviction of a mobster who has failed to pay his taxes. As the report makes clear, unless IRS rejoins the fight, we can expect organized crime to do serious damage to the economic and political fabric of our Nation.

I would like to thank Senator NUNN, the chairman of the subcommittee, for the valuable work he and his staff have done in the preparation of this report.

IF JAPAN CAN—WHY CAN'T WE?

Mr. PERCY. Mr. President, NBC and Weyerhaeuser Co. have provided a valuable public service in airing the television "White Paper, If Japan Can—Why Can't We?" broadcast on June 24 during prime time, it cast light on one of the most perplexing—and yet economically key—problems of our time: productivity.

I would like to heartily congratulate NBC for producing this excellent program and Weyerhaeuser for sponsoring it. I would also urge them to consider rebroadcasting this important and powerful documentary so that others who may have missed it will have an opportunity to learn from it.

NBC news correspondent Lloyd Dobyns wrote and anchored the white paper. He is to be commended for translating abstract economics into a program that could be appreciated by all Americans. As he said during the program:

> Productivity is not some esoteric economic subject. It is how much we produce and how much it takes to produce it. The object is to make more for less. If you do, everyone benefits.

In the program, our own recent dismal productivity record—U.S. productivity actually declined last year—is contrasted with one of our most formidable trade competitors, Japan. Productivity in Japan soars at annual rates of more than 10 percent, while that in the United States slides.

Mr. President, the handwriting is on the wall with regard to our economic performance and it is not encouraging. The "NBC White Paper" moves us toward a better understanding of where we are and where we should be going.

Just this week the Labor Department released the second-quarter figures of the Nation's productivity. It fell at the astonishing annual rate of 4.1 percent, on top of a similar 1.1-percent drop in the first quarter.

When agriculture—one of our Nation's most productive and innovative sectors—is added to this equation, second-quarter productivity still fell by 3.1 percent. In releasing this second measure—of the "private business sector"—the Labor Department noted that productivity has fallen for 6 consecutive quarters, the longest string since a 7-quarter decline in 1973–74.

This present decline is no doubt tied up with the economy's overall sluggishness and is another sign of the recession.

But there is a larger trend here, of which this is a part. Productivity has been declining in the United States for most of the 1970's. Last year, productivity fell by 0.9 percent, only the second annual decrease in the Labor Department's 33-year history of compiling these statistics. In the 1950's and 1960's, we chalked up annual productivity increases of 2, 3, and 4 percent. That was the way we kept inflation low and made room for healthy wage increases. As Lloyd Dobyns notes in the "NBC white paper"—

> Unless we solve the problem of how to improve our productivity, our children will be the first generation in the history of the United States to live worse than their parents.

The productivity slowdown is a widely acknowledged problem, but as has been said of the weather, everyone talks about it but no ones does anything about it. In Congress we are beginning to fashion policies that will change our regulatory structure and modify the tax laws to encourage productivity improvement. We have a long way to go and programs like NBC's "White Paper" will help us forge a consensus for these needed reforms.

Mr. President, I have carefully read over the transcript of the "NBC White Paper" and selected those parts that I thought would be of most use to my colleagues. I ask unanimous consent that these excerpts, from parts III, IV, and V of the June 24 broadcast, be printed in the RECORD at the close of my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit I.)

Mr. PERCY. Mr. President in closing, I would like to emphasize that improving productivity does not just mean more work out of fewer employees. Too many people have that notion. There are many roads to better productivity. Lloyd Dobyns highlights one in this white paper. He points out that Giant Food, a Washington-area grocery chain, his installed check-out computers, dramatically increasing the company's productivity. Then he notes:

> To the delight of the union, the warehouse work force has gone up almost 50 percent. To the delight of the company, the work being done has gone up more than 100 percent.

So better productivity is better for all of us—labor, management and consumers. I look forward to equally excellent examinations of economic problems in future NBC "White Papers" and urge the network to take other initiatives that will throw light on the complex questions of our economy.

EXHIBIT 1

IF JAPAN CAN . . . WHY CAN'T WE?

PART III

Unidentified Japanese No. 1. (Speaks Japanese).

Unidentified Japanese number 2. As you know, you know that we increased our production quantity.

LLOYD DOBYNS. This is a weekly management meeting at a manufacturing plant in the suburbs of Chicago.

The plant is owned by Matsushita, the Japanese electronics and home appliances giant, but most of its top management is American, including its president, Richard Kraft.

Matsushita bought the failing plant from Motorola and turned it around.

RICHARD KRAFT. Bud, can we have a little report from production?

MIC Manager number 1. I'd like to refer to the charts upon the wall, our productivity charts. 1979 showed an improvement over '78.

DOBYNS. Under Matsushita, there are about four defects for every 100 television sets made. Under Motorola, for every 100 sets, there were 150 defects.

KRAFT. It was pretty evident in the past, in those last few years with Motorola that the corporation was not really putting their best effort forward to make the consumer products division successful.

DOBYNS. For one thing, the assembly line was outdated, and the production workers had to keep up with the set to do their work. That caused mistakes.

Matsushita installed a new assembly line so that each worker could stop the circuit board, do what had to be done, and send it on. They don't have to chase it to work on it.

Incidentally, the work force making Quasar sets for Matsushita is essentially the same group that made Motorola sets.

Some new Matsushita machinery to automate and speed circuit board building has been installed. Even though it is older, slower, and smaller than similar machines in Japan, it is technological progress.

And production workers are more involved. Each week, each line meets with its foreman to hear what the company is doing and what it plans. It isn't quite a QC circle, but it is worker participation.

KRAFT. We basically believe in the concept of dealing directly with our people. We like to feel close to our people. We like to keep them informed. We like to hear from them about their problems and ideas, and this is very much in tune also with Japan.

DOBYNS. So are the employees' quality signs around the plant and their recreational program.

MIC Manager No. 1. I'd like to inform the group as well that our annual spring fashion show is well on its way, and the theme this year will be "Steppin' in Style, Now and Then."

Unidentified Japanese No. 3. I try to wear a kimono. (Laughter)

KRAFT. That's something we haven't tried yet, wearing a kimono.

DOBYNS on camera. For years now, the American steel industry has been losing business to the Japanese, who could produce a ton of steel with fewer men for less money. Now some of that business is starting to come back, attracted by American mills that are small, modern, and beat even the Japanese at producing more for less.

KEN IVERSON. We make steel at a lower cost than any steel company in the world, including the Japanese.

DOBYNS. The plant at Norfolk, Nebraska, is one of 10 owned by Nucor, a profitable, nonunion steel company.

IVERSON. We build plants very economically and, secondly, we run them very, very effi-

ciently, the primary thanks to that goes to the employees themselves and the incentive production systems.

DOBYNS. Nucor also invests heavily in modern technology, plowing back part of the profits to buy new equipment and experiment with new methods and machine improvements.

Iverson believes technology is important, but not as important as people. And people, he believes, want to be rewarded for their work, so when they produce more, he pays them more.

IVERSON. Our production workers work on a production incentive system. They are groups of about 30 people who are doing some complete task, such as producing a certain number of rolled tons. If they exceed that standard in a week, then they receive extra pay based upon how much they exceeded the standard. It's not unusual for the bonuses to run over a hundred per cent. The bonus is paid the next week. There's no maximum on it. The average hourly worker in this plant earned about $22,000 last year; we had melters who earned about $35,000.

Nucor employee No. 1. The job is good, but the money's great.

IVERSON. Our, really, the first time we had a worker who had, a group that earned a hundred per cent bonus, I had a feeling in the pit of my stomach I might have created a monster. But it really works.

Nucor employee No. 2. The more steel we make as a crew and roll, the more money we make, and the more money we make, the more money the company makes.

DOBYNS. If a man doubles his pay, what does he do next?

IVERSON. He doubles it again. There is no cap on it. If we produce, if they produce again twice as much, the bonus would go to 200 per cent. We never change the standard.

DOBYNS. Could the huge steel mills do it?

IVERSON. Yes, by designing incentives which properly reward workers when they produce added amounts of production. I think there's one problem, though, in this country in that I think many corporate executives are not willing to do it. I think if, they'll give lip service to the fact that if a man does twice as much, I'll pay him twice as much. But if he does and it comes down to it, they'll either say the standard was wrong or he cheated or they'll bring their consultants in to say it for them.

DOBYNS. Because of the bonus system, Nucor workers are critically interested in production.

Nucor employee No. 3. It's the people's attitudes here. You look around and you talk to everybody, it's all production. They want to get production up. If we break down or break out ever on the caster, everybody is kind of running around trying to get things going.

IVERSON. We're looking for that performance oriented person who, one, has goals and, secondly, sees the reward in those goals, and that's what he's looking for.

Nucor employee No. 4. I like the incentive bonus program probably the best. The job security is another big, big item to me.

IVERSON. We have not laid off a single employee for lack of work for more than 10 years.

DOBYNS. No one?

IVERSON. No one.

DOBYNS. Modern equipment, production bonuses, job security and everyone makes a profit, including The United States.

IVERSON. For the last four years, our price FOB, which is leaving this plant, has been equal or less than the Japanese price of steel landed dockside in the United States. Actually, most of our market has come from taking that market that used to belong to foreign steel producers.

DOBYNS. Speaking of the Japanese, have they ever toured any of your facilities?

IVERSON. Yes. They've been in this plant.

DOBYNS. Did they like it?

IVERSON. Yes, they said it was one of the most productive plants they had ever seen.

DOBYNS. From the steel mill to the grocery store, this one a Giant Food Store in suburban Maryland.

DOBYNS on camera. What ever happened to the cash register?

CHECKER. It's gone; it's outdated.

DOBYNS. Do customers like this?

CHECKER. Yes. They really do. It takes them a little while to get used to it, generaly a couple of weeks, and then they just won't go anywhere else because they don't want to waste the time in line.

DOBYNS. This is faster?

CHECKER. Definitely.

DOBYNS. How do they know what they've bought?

CHECKER. Well, the receipt tape, we have two ways. First of all, the display up here, you see Giant Plastic Bags, a dollar nineteen. That's first of all. And then, second of all, everything that you just bought is on here. There's the leeks, lunch bags, lemon juice, apple juice, V–8.

DOBYNS. Doesn't it feel funny when you don't have your cash register to. . . .

CHECKER. No. I don't miss it at all. No. (Laughs)

DOBYNS. I see.

CHECKER. It's like a horse to a rocketship.

DOBYNS. When the company's computer system is completed, each store's check-out computer will be linked to this central warehouse computer and stock shipments will be automatic. It is already partially automated, and the gain in Giant Food's productivity has been dramatic.

To the delight of the union, the warehouse force has gone up almost 50 percent. To the delight of the company, the work being done has gone up more than 100 percent.

Productivity.

About 15,000,000 pieces of mail go through the General Post Office in New York every day. Working by hand, one person can sort about 30 pieces each minute. It is demanding, tiresome, lonesome, and often puzzling work.

New keyboard sorters are twice as fast, and the operators work to music. The machines are a productivity improvement, as was the zip code. And if the radio music helps the operators, that, too, contributes to Post Office productivity. And to increase the rate of sorting from 30 letters a minute to 60 is a good stunt.

But it doesn't come close to this optical character reader, which can sort 750 pieces of mail every minute, 45,000 per hour, and needs only a few people to operate.

With equipment like this, each postal worker here handles half again as much mail as he did 10 years ago.

In Detroit, this is a familiar sight: the city garbage truck with a driver and two men to pickup and load. And as wages increase, the cost of garbage collection increases.

So the city began to move to one man garbage trucks in 1976. There are now 25 in service and 70 more on order. With the loading bin on the side near the front and the steering wheel on the right, collecting garbage becomes much more efficient.

Detroit officials say a one man truck picks up as much garbage as a three man truck.

The Donnelly Mirror Company in Holland, Michigan, is well known in industrial circles for its gains in productivity and its success in the marketplace.

The company makes automotive mirrors and glass and specialty glass. It is nonunion, but operates on a bonus and worker participation plan first suggested by a steel union official in the late 1930's.

The plant is organized into teams to figure out better ways to do the work, and everybody gets a share of any productivity profits.

Arlyn Lanting, Donnelly's president, presides over a monthly meeting of workers where almost anything can be discussed.

Because the plant is organized into interlocking teams with information passing up and down among them, everyone in the plant always knows what is happening and what is likely to happen. No one feels left out or ignored.

ARLYN LANTING. We want people involved, we want them to know what's going on, we want them to, to see what they're doing, how that relates to what the corporation's doing.

DONNELLY WORKER. Participation. We all help, we all are stimulated and motivated by that to do as much as we can.

DOBYNS. Workers at Donnelly even come up with ways to eliminate jobs. But if the job is eliminated, the worker isn't. He gets another job.

DONNELLY WORKER. We used to have only one dynacast machine, what they call, but due to the fact that we had so much time left, I did ask quite a few times, and I finally got my way that they ordered a second machine. It was a lot cheaper for the company, for we could operate two machines in the same time as what we use to do with one machine. It doubled the production, saved a lot of time and energy. Any kind of wild idea, what they call, bring 'em up. They'll look into it, and if it's possible, they will make it work.

DOBYNS. Along with productivity increases, Donnelly has benefitted by taking risks to develop and market new products.

LANTING. We've come up with an innovative opera window for the automotive industry, because before this time, they'd have to get in the car and assemble an opera window, and it's a very difficult job. So we developed a window so you can stand outside the car and just pop it in and put three or four screws into the particular window, and it would be assembled. For them it was a cost reduction, they liked it; for us it was a whole new area for our company, and it's our objective now to be a world leader in opera windows.

DOBYNS. An opera window is the small window used in limousines, but they are becoming increasingly popular in small sports cars.

Donnelly is already a major supplier of automobile mirrors world-wide and is moving ahead in coated glass. After five years of effort, it recently got an order from Japan.

LANTING. Quality is very, very sacred and very important to the Japanese. It doesn't impress them much what the rest of the world is doing concerning quality. They'll just nod and say, "That's fine, but here's what we want." And they've really helped upgrade our whole quality level. They seem very dedicated, they're very tenacious on productivity. They're doing some things right. How come they can do it, and we can't?

DOBYNS. Donnelly is an established company. Romac Industries in Seattle, Washington, is new. And so is its pay system.

Production workers vote on each other's raises on the theory that no one knows how well you work better than the people who work with you.

Bob, when you decided you wanted a raise, what did you do?

Romac employees No. 1, No. 2, No. 3, intercut. I went into the plant manager and asked him for a raise slip . . . and you write also how much you want more an hour . . . everything I said was real sincere about what I was saying . . . I put in that my quality and quantity was up to level . . . it was up there a week.

DOBYNS. And who votes?

Employees No. 1, No. 2, No. 3, inter-cut. All the employees here . . . the people that you work with see you more than your managers do . . . and I got voted in for it . . . 11 to three.

DOBYNS. You got your raise?

Employees No. 1, No. 2, No. 3, inter-cut Yeah . . . it was unanimous, 15 to two.

MANFORD MCNEIL. What we wanted to do is involve our people.

Romac employees No. 4 and No. 5. Hi, Ray. Hello John.

MCNEIL. We want them to be cognizant that productivity and conscientiousness and relating one to the other are all part of our jobs.

DOBYNS. The voting system was part of a five point plan to improve relations after Romac faced two union elections in one year.

A second part was a monthly meeting between worker representatives and the company president. No foremen are allowed. No question is prohibited.

Romac employee No. 6. We have dates set up for the office crew to come out into the shop. You are going to be first.

DOBYNS. And once a year, every officer of the company must spend a day working in the shop. McNeil doesn't want any official to forget where the profits really come from.

Romac employee No. 6. When?

MCNEIL. Yeah.

Employee No. 6. Six-thirty to three.

MCNEIL. Ah.

DOBYNS. Romac Industries makes waterworks pipe fittings, a specialized but potentially highly profitable business. And another part of the Romac plan is profit sharing so that everyone benefits from everyone else's work, a clear reward for group effort.

McNeil, who started Romac doing his own work, is convinced this system builds productivity and trust.

MCNEIL. Can I do that?

Romac employee No. 7. Yeah, I'll give you that one; you want to finish that one?

DOBYNS. McNeil says the idea of his plan is to eliminate the traditional labor-management adversary relationship.

MCNEIL. Boy, you sure do it faster than I do it, holding a whole handful there . . .

Employee No. 7. I do it faster than anybody because I'm at it all the time.

MCNEIL. Okay. (Pause) I bet I can run faster than you can.

DOBYNS. Building automobiles is considered a typically American industry, but it is in deep trouble. Different companies are reacting in different ways.

Chrysler at Belvedere, Illinois, is taking advantage of advances in technology, like these robot welding machines.

Oldsmobile at Lansing asked its workers how the assembly line could be made more efficient and adopted some of the suggestions, including this wide belt that lets the worker move with the car.

At Buick's complex at Flint, Axle Plant 31 was about to close. The old style axle was to be phased out anyway, and the plant had a poor labor record. Plant management and the union local agreed to cooperate without a formal program to try to get new axle business and keep the plant open.

WILLIAM ROWLAND. We had to be competitive, to get new business in because we were about to lose some 1,200 jobs on the axle business, and we set an objective to bring in business and to replace those jobs.

AL CHRISTNER. And I felt that with their sincerity of bringing us some work in here, we would then look at trying to cooperate to see that we couldn't, I said that we could do this work as good as anybody at any other UAW plant or anywhere else.

ROWLAND. Some three years later, the axle is totally phased out. We have replaced that business with X-car business—it's called a trailing axle—and today we have roughly 1,300 people where we had some 1,200 that would have otherwise lost their jobs.

Buick employee No. 1. Our employment today in 31 . . . .

DOBYNS. General Motors is now involved in Quality of Work Life programs, which can be described as democracy in the working place. QWL programs are designed to improve the product by increasing worker participation and involvement and making the worker's life better.

Buick employee No. 1. . . . playing a game with high stakes, our jobs.

ROGER POWELL. Quality of work life is people oriented; it's human. GM in my own opinion got involved in it through fear. Why they got involved I don't, I don't really care. It's the goal we're after.

ROWLAND. The joint thrust of our union and ourselves and the employees is to improve the quality of the product. When we talk quality of the product, we're talking increased productivity. Because if we build it right the first time, we don't have to tear it down, we don't have to repair it.

DOBYNS. At the Buick assembly plant at Flint, workers meet in Employee Circles, not unlike the Japanese Quality Circles, to talk about how to do their work better and make it easier for everyone else.

These utility men discuss how to spot and correct defects immediately and, equally important, how to make working at the plant more pleasant.

Utility man No. 1. . . . can make a world of difference to somebody.

Utility man No. 2. What you usually find in there, too, if guys can switch around on the various jobs, I have found this out in the past, it, it breaks up the monotony of the day, and the day goes by much faster.

DOBYNS. The largest and most impressive Quality of Work Life program is at GM's Tarrytown plant.

In 1970, it had the worst labor relations and production records of any GM assembly plant. The company was going to close it, but GM and the United Auto Workers agreed to try a QWL program.

It took seven years, enormous patience, hard work, and more than $1,500,000.

Was it worth it.

Neither the company, nor the union wants to say too much, but with the auto industry in a slump, Tarrytown is going full blast.

POWELL. Quality of work life is involvement, involving me in the decision-making process, in treating me as somebody. I want to be somebody.

DOBYNS on camera. In almost all the solutions to the problem of productivity, there is a common thread: each of them includes, in some way, worker participation, job security or both.

Every expert to whom we talked agreed that no solution can succeed fully unless it includes the active participation of the people who actually do the work, union or nonunion.

All humans think, and nowhere is it chiseled in stone that those in management think best.

PART IV

LLOYD DOBYNS on camera. We have said several times that much of what the Japanese are doing, we taught them to do. And the man who did most of the teaching is W. Edward Deming, a statistical analyst, for whom Japan's highest industrial award for quality productivity is named.

But in his own country, he is not widely recognized. That may be changing.

Dr. Deming is working with Nashua Corporation, one of *Fortune* 500, a company with sales last year of more than $600,000,000. Deming was hired in late 1979 by Nashua's chief executive, William E. Conway.

WILLIAM E. CONWAY. I would say that already we're saving millions of dollars. We'll probably improve the over-all productivity of the company something in a few years by 10 to 15 per cent, and every year thereafter you take and get incremental increases in productivity of four or five per cent. Now, I mean that over and above that which you would get by normal capital investments or normal changes in machinery and things like that.

DOBYNS. Nashua started in New Hampshire in 1904 as a small paper converting company, and coated paper, like this carbonless paper, is still a substantial part of its business.

Nashua also makes computer memory discs and other office products, including, starting this year, its own office copying machines.

It had worked with a Japanese copy maker and through that relationship heard about Deming. The company sought him out.

DON HUNTER. We've applied the Dr. Deming statistical technique to our carbonless coating operation. Once the process was under control, we were able to save up to $500,000 by reducing the coat weight and also maintaining consistent customer quality. And what this also has done is allowed us to free up personnel, make them available for testing in other areas, which we found to be very important. The statistical approach has allowed us to learn more about the system. Before the use of Dr. Deming's techniques, we were constantly changing the conditions on the coater.

DOBYNS. The coater is crucial to the carbonless paper business, so Deming insisted that the machine be allowed to run by itself, then analyzed what the machine would do without human adjustments. It was more complicated than that, but based on the quality level Nashua's customers asked for, and the machine's performance on its own, Nashua could change its operation, meet all quality needs, and save money.

HUNTER. After applying these techniques, we're able now to sit back and let the coater operate on its own and make less adjustments to the machine.

W. EDWARDS DEMING. If you get gains in productivity only because people work smarter, not harder, that is total profit, and it multiplies several times.

DOBYNS. Dr. Deming, who is now 79, and his wife have lived for some years in this house in Washington. His office is in the basement, and Mrs. Deming is one of his assistants.

He works constantly and has absolute faith that his system of statistical analysis helps industry. He was equally certain of it when he went to Japan to teach it there.

DEMING. I think that I was the only man in 1950 that believed that the Japanese could invade the markets of the world and would within four years.

DOBYNS. If the Japanese were impressed with Deming and his system of quality production through statistical analysis, and they were, they were no more impressed with Deming than he was with them.

DEMING. What I saw was a magnificent work force, unsurpassed management and the best statistical ability in the world. It seemed to me that those three forces could be put together, and I put them together, so that Japanese quality instead of being shoddy became known within a few years; in less than four years manufacturers were, all over the world were screaming for protection.

CONWAY. And, of course, our major supplier of copy machines was a Japanese company. And so we saw the advantages of many things the Japanese companies were doing, and we'd heard about Dr. Deming, and we got off and got underway with our quality program with Dr. Deming.

DEMING. They realized that if, what, that the gains that you get by statistical methods are gains that you get without new machinery, without new people. Anybody can produce quality if he lowers his production rate. That is not what I'm talking about. Statistical thinking and statistical methods are to Japanese production workers, fore-

men and all the way through the company, a second language.

Nashua employee No. 1. And what we need is to have Dr. Deming help us learn what the Japanese so successfully have learned.

DOBYNS. As part of his program, Dr. Deming teaches practical statistics, so that everyone in the plant becames part of the quality control effort, understanding what has to be done and how to go about doing it. Everyone can participate; everyone gets a say. It encourages company loyalty.

Employee No. 1. Japan needed to do this for survival, and they did it, and they've done it well. Now we've got to try and learn the things that they've so successfully done.

Employee No. 2. If Japan did it, we can do it.

DEMING. In statistical control you have a reproducible product hour after hour, day after day. And see how comforting that is to management. They now know what they can produce; they know what their costs are going to be.

CONWAY. Many of these programs on statistics have died in American companies because they didn't get the top management support. Now, why top management does not believe that this is the way the Japanese have improved their industry over the last 30 years, I don't know.

DEMING. I think that people here expect miracles. American management thinks that they can just copy from Japan. But they don't know what to copy.

CONWAY. Probably for the first six months, I would say, of the program, I spent half my time, at least half of my time, talking to people, thinking about it, writing memos, joining groups to take and try to convince them of the importance of this tool and how to use it.

DEMING. The training that the Japanese workers have could be copied here, and is being copied some places, but there's not enough of it.

CONWAY. Even today, probably the top, oh 100, 200 managers in the company are devoting 25 or 30 percent of their time to nothing but furthering the quality program.

DOBYNS. If that sounds like a lot of time and effort, it is. But Dr. Deming never said his system was simple; he only said it would work, and it would pay off. In the experience of Nashua so far, it pays off.

Employee No. 3. Since Monday, the loading and unloading has been much better because Morris, the mechanic . . .

DOBYNS. The Deming system uses statistics to eliminate guesswork.

Statistics is not magic, nor is it a science. It is a method of finding out exactly what is happening and what is likely to happen. Once you know that, any competent management can fix what's wrong.

Employee No. 4. Does everything mesh now? (Garble).

Employee number 3. All except, well there's one that could use a little, number two mandrill could use just a little bit of attention, but other than that, they're pretty good. We begged for deeper grooves in the trays. They, they're not deep enough, they don't really grip. . . .

DOBYNS. The idea is to establish, first, what a product should be or a process should do. From then on, if you leave it alone, it is always the same.

But the Deming method involves constant monitoring of the system, particularly by the people who do the work. The program to do it better, faster, and easier never stops.

Employee number 4. It could be causing aluminum chips in the coating room, so anything like that be sure you let George know or somebody know.

CONWAY. And once we started to have some success stories, we started to use the people who made the successful program talk to other people in small groups and gradually larger groups.

Employee number 4. By dropping the handling damage down from 12 percent to approximately five percent, we are presently saving $30,000 a month, and as our volume grows in the next three or four months, we should double that to $60,000 in cost savings a month.

DOBYNS. That's $720,000 a year in one area, enough to please any management. But one part of Deming's program is not likely to please them. He insists that management causes 85 percent of all the problems.

DEMING. I ask people in management what proportion of this problem arises from your production worker, and the answer is always, always, "All of it." That's absolutely wrong.

Employee No. 4. As we got into it, Dr. Deming was right: 85 percent of the problems were really management, management problems. It was part of the system, whether it be training, morale, mechanical type things. There weren't that many operators out there that just didn't care.

DEMING. Inspection does not build quality, the quality is already made before you inspect it. It's far better to make it right in the first place. Statistical methods help you to make it right in the first place so that you don't need to test it. You don't get ahead by making a product and then separating the good from the bad, because it's wasteful. It wastes time of men, who are paid wages; it wastes time of machines, if there are machines; it wastes materials.

Employee No. 5. The first thing we did was to have some posters drawn up to emphasize handling damage, how it was caused, and how we could, how we could eliminate it. People just didn't understand how delicate a disc is, that by scratching a fingernail across it, you indeed ruined it so that it couldn't be used again. They went out—our original group grew from eight to about 15—and they, it was a lot of peer pressure, you know, they got out on the floor and said, "Oh, by the way, you're not supposed to be wearing rings while you're handling discs. You know, that could cause a problem," and explain.

CONWAY. There's just no question in my mind that Dr. Deming is the father of the third wave of the industrial revolution. There was the first wave way back with Eli Whitney and the cotton gin and the development of the textile industry in England. And the second wave being in the United States, the large homogeneous market, followed up with the low unit cost from mass manufacturing and with standardization of parts. Now this change to the use of statistics to assist all phases of production, marketing, distribution, what have you, that Dr. Deming talked about is just as big as either one of those, and any one who doesn't join that revolution, I think over time is going to be in serious trouble.

DEMING. There's nobody comes out of a school of business that knows what management is or what its deficiencies are. No one coming out of a school of business ever heard of the answers that I'm giving to your questions or probably even thought of the questions.

DOBYNS. That sound a little harsh, Doctor.

DEMING. Yes. I am harsh. I should know what I'm talking about.

DOBYNS. Is there an attitudinal difference between the United States and Japan?

DEMING. They are using statistical methods. They have not only learned them, they have absorbed them, as Japanese absorb other good things of cultures. They are giving back to the world the products of statistical control of quality in a form that the world never saw before.

DOBYNS. Would the same methods work in the United States, could we do the same thing?

DEMING. Why, of course we could. Everybody knows that we can do it.

DOBYNS. Why don't we?

DEMING. There's no determination to do it. We have no idea what, what's the right thing to do, have no goal.

PART V

LLOYD DOBYNS on camera. Americans have always believed that wealth is not limited, that the economic pie always expands, and if you want more, you can get it without taking it from anyone else.

Other people—British and Swedes, for example—have come to believe that the economic pie is one size, and the only way to have a bigger share is for someone else to have a smaller share.

The trouble is that those without want to get more, and those with want to give less, and each side resents the other. That can make for very serious conflict.

The American belief of ever-expanding wealth avoids that conflict, but it works only while productivity increases, what Dr. Deming calls working smarter, not harder.

Productivity is society's dividend, the pay-off for all our work. Increasing productivity pays for fighting society's ills without having to take money away from something else.

So, what is happening to our productivity now comes at a particularly bad time. As we recognize more human needs and try to meet them, our economy is suffering inflation and recession.

The United States has overcome inflation and recession before, but it has never even faced a productivity problem. That is why the United States has been the only industrial country *without* a national productivity policy. Last February 29th, a start was made.

The Office of Productivity, Technology and Innovation was created in the Commerce Department.

Assistant Secretary Jordan Baruch, who heads it, plans to adopt one program from the agriculture industry. Government and industry will establish industry-wide "best practices" programs; that is, everyone will share information on the best way to make something, just as farmers share information on the best way to grow something.

The county agent will finally have a counterpart in industry.

That's a solution rooted in the American experience rather than a slavish copying of the Japanese. Copying won't work.

We are two different societies. They operate by consensus; we, by confrontation. That explains why the United States on a per capita basis has 20 times as many lawyers as does Japan.

And we have more service industries and a huge government sector.

Government and service—banking, insurance, restaurants and that sort of thing—are inherently less productive than manufacturing, and that helps depress our productivity.

Manufacturing, making things, is a smaller percentage of our national economy than of any other industrial coutry, and that makes productivity improvement even more difficult.

Until now, probably because the United States was such an enormous and expanding market, productivity has almost automatically increased.

So, throughout our history, parents have expected their children to live better than they did. And that has *always* been true. We live better than did our parents, and they lived better than their parents.

Unless we solve the problem of productivity, our children will be the first generation in the history of the United States to live *worse* than their parents.

I'm Lloyd Dobyns, NBC News.

A WHITE PAPER: THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT

Mr. MELCHER. Mr. President, it is essential that I give the response of the Subcommittee on Environment, Soil Conservation, and Forestry to the assessment, program, and statement of policy submitted by the administration to the Congress on June 27, in accordance with the provisions of the Forest and Rangeland Renewable Resources Planning Act.

This review paper contains four parts:

A preamble, which sets forth the intent of Congress in passing the law in 1974.

A review of the assessment of the renewable resources of the United States.

A critique of the documents based on subcommittee oversight and a recommended supplement to the statement of policy, based on that oversight.

It is our intention to hold hearings based on the documents submitted to us by the administration and on the white paper we have produced in response to them. We will welcome any additions, subtractions or amendments to our work. At the appropriate time, we will announce dates for the hearings.

I ask unanimous consent that the white paper be printed in the RECORD following Mr. JEPSEN's statement.

STATEMENT ON THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT WHITE PAPER

Mr. JEPSEN. Mr. President, I wish to join the chairman of the Subcommittee on Environment, Soil Conservation, and Forestry in recommending to the Senate and the general public, consideration of the subcommittee's review paper on the Forest and Rangeland Renewable Resources Planning Act (RPA).

As the ranking minority member of the subcommittee, it has been my intent to carefully examine the RPA documents submitted to Congress by the administration on June 27, 1980, and consider the possibility of presenting a supplemental statement of policy to strengthen the RPA's effectiveness. Proper attention to our renewable resources now—and not at some later point in the future—is essential if we are to structure a meaningful planning process for our forest and rangelands.

I support the chairman's announcement that hearings will be conducted on the administration's proposals and the subcommittee's response to them. I likewise agree that no portion of our white paper is final, and therefore will be subject to amendment or revision at any time. Hopefully, with the input and assistance of professional forest organizations and foresters, and others concerned about the well-being of our renewable resources, we will be better able to recommend to the Senate a realistic RPA program based upon our oversight and review.

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

THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT: A CONGRESSIONAL RESPONSE TO THE PROPOSED PROGRAM AND STATEMENT OF POLICY

CONGRESSIONAL INTENT

Senator Hubert H. Humphrey introduced the Forest and Rangeland Renewable Resources Planning Act (RPA) on July 31, 1973. It was signed into law by President Gerald R. Ford on August 7, 1974.

The 25 cosponsors of the bill had three major concerns with respect to the management of America's lands:

1. We had barely scratched the surface of achievements possible from our land base;
2. That time was not on our side insofar as dealing with the management problems that existed; and
3. Delays in making the investments necessary on those lands could be fatal to the Nation's long-term well being.

The sponsors of the original bill, believed strongly that the most orderly manner in which to secure the needed investments on the Nation's forest and rangeland was to determine the condition of those lands, with the basic goal in mind that the rate of use not exceed the ability and commitment of the country to renew the resources, and that management be designed to achieve maximum biological outputs from the lands. This first step in the RPA process was labeled the Assessment.

From this body of information the Program for the Forest Service was formulated. Using public participation and the national forum provided by Congress, the sponsors intended the Congress and the Executive Branch to get long-term and short-term goals for forest and rangeland management, and to translate these goals (the Program) into action programs through the annual appropriations process so that the U.S. can come to grips with tomorrow's resource problems before the Nation has an irreversible crisis.

This is not to suggest that the Congress must provide 100 percent of the money required for the preferred Program each year. Obviously the Nation has many kinds of priorities, and expectedly it will often be the case that it is not possible to fully fund the program. But given the orderly RPA process, Congress will know what it is buying if the Program is fully funded, and it will know the benefits foregone if less than 100 percent is funded.

For this reason, the law specifies that the President should send the Congress a preferred program of work, rather than a range of options, so that the Congress will have the benefit of the best professional advice available from the Forest Service, one that examines all resource management opportunities, and develops strategies for actions on inputs and outputs that are economically, environmentally and socially sound.

The third component of this policy development legislation is program evaluation. Each year the Forest Service is required to submit to the Congress a report which demonstrates in quantifiable and qualifiable terms the quality of the stewardship of the agency, so that Congress can determine whether the Forest Service is carrying out policy and its mission in a cost-effective manner.

Finally, the law requires the President to submit with the Program and Assessment a Statement of Policy that recommends a course of action for the Forest Service, but leaves him free to offer other alternatives.

In this regard, Senator Humphrey said on the Senate Floor:

"We agreed that there could be two ways of objecting to a recommended program. Objecting to a recommended program would consist of either a resolution of disapproval or a revised statement of policy emanating from the Congress. It seemed to us that the resolution of disapproval would have merit only where there were wide and irreconcilable differences with the proposed program of the Executive. Generally speaking we thought it better to provide that Congress, working with the Executive, could develop a revised Statement of Policy."

It is the intent of the Subcommittee on Environment, Soil Conservation and Forestry to offer to the Senate this year an amended Statement of Policy.

The RPA is a unique law in that it does not create new Federal programs, but instead establishes a management and policy-making process by:

Putting together the best factual base on resource conditions that can be obtained so that responsible actions may be carried out based on the information. It allows Congress and the Executive Branch to look ahead and weigh future consequences of our actions or inaction. It opens up the budget and policy processes so that Congress has all of the facts that the Executive Branch has had in preparing budgets. And it measures performance by converting annual reports into performance documents.

Given these congressional expectations, it is fair to say that the members of the Subcommittee were disappointed with a number of things in the Program and the Statement of Policy, which were transmitted to Congress in June.

Future targets for action were not well defined, and there is no national focus presented. It is not enough to make projections of demand, and then show a gap in supply. Our target should be what it takes for all renewable resources to be managed in order to meet demands, where possible.

The program presented to Congress provides a range of action levels for each program activity, avoiding the recommendation of a preferred Program as required by the Act. Neither the low program level nor the high level accurately defines the expected outcome for each resource in the five years ahead, nor the impact on the future in terms of targets. Instead, the low bound of the Program assumes that investments on forest and rangeland will be deferred for the next five years, nothwithstanding the demands on those lands as identified in the Assessment.

The law states that the Program must be devised in such a way so that it assists Congress in the framing of budgets. To do this, the Program must provide the best judgment of the professional land managers regarding what they feel must be done to protect and enhance the land. Given such a Program, it would then be the responsibility of the Congress and the Executive Branch to either fund the Program at the recommended level, or refuse to fund it in total because of other, overriding national priorities.

The Subcommittee feels a responsibility to the Appropriations Committee to provide it with a Program for the Forest Service which is responsive to professional requirements for sound land management, and a Statement of Policy which reflects national goals for the future.

1979 RPA ASSESSMENT

The Forest and Rangeland Renewable Resources Planning Act of 1974 directs the Secretary of Agriculture periodically to assess the status of the Nation's forest and rangeland resources and to recommend a program for the Forest Service role in management and use of the resources.

The Congress finds that the 1979 "Assessment of the Forest and Range Land Situation in the United States" as prepared and submitted by the Forest Service, U.S. Department of Agriculture, to be a comprehensive and well prepared document.

The 1979 RPA Assessment reports that, based on expected increases in population, economic activity, income, and a continuation of recent trends (1950–76), the demands for most products are likely to continue growing rapidly in the decades ahead. The amount of increased demand varies from product to product.

Despite the differences, the projected growth in demand is substantial for all products. On the other hand, the Asssessment shows that assuming a continuation of recent trends in investments in forest and rangeland and water programs and facilities, these lands will not yield the achievable output. Thus, the Nation is faced with upward pressures on real prices of market goods and services and increasing competition among users of nonmarket goods and services who use the available supplies. For such products as timber and energy resources, those pressures are severe in the near term. For the others, the demand pressures do not become serious until 2000.

This outlook has some important and adverse economic, social, and environmental implications. For example, the projected imbalance between demand and supply for timber means that the Nation is faced with the prospect of rapid and continuing increases in the prices of stumpage (standing timber) and timber products, relative to the general price level and to prices of most competing materials. This means increased cost to consumers of products such as houses and furniture made wholly or in part from wood and rising environmental costs resulting from the mining, industrial processing, and power generation associated with the increased use of substitute materials; and an acceleration in the rate of use of nonrenewable resources.

As shown in the 1979 RPA Assessment, these widespread and adverse effects associated with this outlook are not inevitable. There is a huge forest and rangeland and water base which can be used to meet demands for nearly all products. In 1977, 1.7 billion acres, some 71 percent of the nation's area, were classified as forest and range land and water. A little over half, or some 820 million acres, was classified as rangeland. Another 737 million acres were classified as forest land, i.e., land that is at least 10 percent stocked with forest trees, or formerly had such cover, and not currently developed for other uses. Of this area, about 482 million acres is commercial timberland, i.e., land capable of producing in excess of 20 cubic feet of industrial wood per acre per year in natural stands and not withdrawn for other uses. The remaining area—some 107 million acres—was classified as water and consisted of lakes, reservoirs, ponds, streams, and estuaries.

To achieve the potential from our forest and rangelands, the 1979 RPA Assessment identified such opportunities as more intensive management of much of the land and water base, the integration of all renewable resources in management plans, construction of new facilities, improvement in the efficiency of utilization, and the preservation of some renewable resources. More specifically, the 1979 Assessment called for:

Outdoor recreation

Providing adequate maintenance of existing facilities and improved pollution abatement.

Constructing additional facilities such as trails, campgrounds, picnic areas, and boat ramps.

Improving access to forest and range land suitable for outdoor recreation, especially near urban areas.

Providing improved opportunities to inform and educate people about outdoor recreation opportunities.

Coordinating and integrating outdoor recreation, including scenic values, with other uses in resources and land planning.

Coordinating the planning and implementation of programs on nonwilderness lands to meet the needs of those who do not require wilderness to satisfy recreation demands.

Wildlife and fish

Implementing programs to increase food supplies, improve cover, stock desirable species, and more fully integrate wildlife and fish into the management of the forest, rangeland, and water base.

Defining, protecting, and augmenting habitats of endangered and threatened species and protecting critical habitat of other species threatened by changes in the management or use of the land and water base. Transplanting or artificially rearing individuals in some circumstances.

Fully integrating the planning, development, and use of fish with other water resources. Avoiding damage to fish by terrestrial resource use. Ensuring free passage of anadromous species.

Providing access by constructing trails, boat landings, and other facilities where the existing wildlife and fish resources are underutilized, and spreading use through time and to developed areas where the resources can support additional use.

Improving the coordination of wildlife- and fish-centered activities of all levels of government and of the private sector.

Range grazing

Shifting grazing from ecosystems with low response to those with higher efficiency of forage production.

Intensifying management on all ranges in all ownerships to improve range conditions, promote production of palatable and nutritious forage, obtain uniform forage utilization, and meet needs of other uses besides grazing.

Improving the amount and quality of forage produced by seeding, introducing improved forage species on selected sites, controlling less productive or less palatable plants on selected areas, controlling poisonous and noxious plants, and employing land treatments to increase production on selected areas.

Improving water facilities, developing water for improved distribution of livestock and wildlife.

Constructing needed livestock control and handling facilities.

Protecting wildfowl nesting areas.

Reducing loss of range forage by controlling wildfire and range insects and diseases.

Reducing livestock loss to diseases, parasites, and predators.

Timber

Increasing the net annual growth and improving tree quality by such measures as controlling species composition, stand density, age classes, and reforestation of nonstocked areas; use of genetically improved planting stock; prompt restocking of harvested stands; control of harvesting methods, and augmenting size quality by fertilization and moisture control.

Reducing timber losses through integrated pest management techniques which prevent or minimize losses caused by insects, diseases, and other destructive agents; better protection against fires, salvage of mortality; and maintenance of site quality.

Increasing use of logging, processing, and urban wood residues, tops, limbs, and rough and rotten trees, and other unused material on harvest sites.

Improving the efficiency of wood processing and the use of wood in manufacturing and construction.

Water

Intensifying watershed protection and management of forest and range lands to enhance the natural recharge of groundwater and improve the timing of flows by storage or vegetation modification, improve water quality, prevent erosion of productive land, and reduce the sedimentation of streams.

Increasing the efficiency of irrigation systems by reducing losses from transmission systems and harmful plants and improving application methods.

Improving the efficiency of central supply systems by elimination of leaks in transmission systems, use of water meters with charges according to use, and implementation of water-saving technology such as more efficient plumbing fixtures and appliances.

Pricing to encourage more efficient use of water.

THE ADMINISTRATION'S PROGRAM DEVELOPMENT EFFORT

The Recommended Program was developed in three steps. First, a series of alternative programs was proposed, representing a wide range of resource emphases, possible investments, potential yields, and impacts on the environment. Second, the alternatives were offered to the public for consideration and comment. And third, after assimilating this information along with analysis of cost effectiveness, irrevocable commitments, policy considerations relating to local and regional stability and national priorities, the Recommended Program was developed. Throughout the entire process, the assessment information and analysis served as both benchmarks and general guide.

Developing the alternatives

The purpose in the first step was to set forth an array of alternative programs that would bracket the range of feasible resource management roles. The myriad possibilities were reduced to a manageable number. To help do this, the "products" of forest and rangeland were separated into two categories: "market resources" and nonmarket resources." For each of these two categories, three general levels of output production were considered—a replay of the 1975 RPA Program regarded as "moderate", one lower than that, and one higher. By applying various combinations of the three output levels to the two resource categories, and by considering different roles for the National Forests as opposed to State and private land, five alternatives were settled on. These alternatives, and the High and Low Bound of the Recommended Program for comparison are:

	Level of activity for—					
	National Forest system		State and private forestry			
	Market	Nonmarket	Market	Nonmarket	Research	Human and community development
Alternative:						
1	Higher	Higher	Higher	Higher	Higher	Lower.
2	Lower	Lower	Lower	Lower	Lower	Moderate.
3	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate.
4	Lower	Higher	Higher	Higher	Higher	Higher.
5	Moderate	Lower	Lower	Lower	Moderate	Moderate.
Low bound	Moderate	Lower	Higher	Lower	Moderate	Lower.
High bound	Higher	Moderate	Higher	Higher	Higher	Moderate.

Because of its decentralized organization, the Forest Service was able to build these alternatives up—on a foundation of basic information submitted from the field—instead of from the top down. Local resource experts in each of the Forest Service's National Forest Regions, State and Private Forestry Areas, and Forest Experiment Stations participated in setting resource goals and evaluating their environmental effects based on Washington Office guidelines. These "mini-programs" were then gathered together by an RPA Core Team and melded into the cohesive national level units just described. The complexity of this approach is justified by its results: the resulting alternatives were feasible options.

Since individual citizens as well as special interest groups often view the management and use of natural resources differently, it was important to involve the public throughout the RPA planning process. Public involvement goals were designed to: (1) improve public understanding of the scope and impact of the RPA Program at local, regional, and national levels; (2) identify what the interested public believed the Nation's forest and rangelands should provide, including appropriate Forest Service programs; (3) identify for public consideration the issues and areas of existing and potential conflict; (4) improve the quality and accuracy of the RPA Assessment and Program; and (5) build public support for the RPA process and the resulting program.

The Forest Service received approximately 1,700 documents from across the country containing more than 50,000 comments on the draft reports.

The Recommended Program represents a multitude of decisions involving large numbers of Forest Service and other U.S. Department of Agriculture personnel and policy officials working closely together.

The final decision process started after the analyses of public comments was completed. When results of this and other analyses were available, regional programs were formulated for the National Forest System, and State and Private Forestry by the Regional Foresters and Area Directors. At the same time, a tentative national program for Research was also formulated.

These relatively unconstrained proposals, based primarily on local needs and capabilities along with the proposed National Research Program, established the starting point for development of the 1980 Program. The proposals were analyzed, element by element. For State and Private Forestry and Research programs, the lowest level (Alternative 2) was selected as the zero base or starting point. For National Forest System, a combination of low-level (Alternative 2) elements and other program elements which provided a positive net present worth, discounted initially at 4 percent and later at 7⅛ percent, was the starting point. Increments were then added for irreversible commitments and major policy decisions. Further analysis and refinement of increments improved overall program efficiency and responsiveness to other evaluation criteria.

These increments and associated information were then presented for final decisions by appropriate Department policy officials and the Chief of the Forest Service.

CONGRESSIONAL OVERSIGHT

Based upon hearings held on June 27, 1980, before the Subcommittee on Environment, Soil Conservation, and Forestry, responses to questions asked as part of the hearings and extensive review of the RPA 1979 Assessment, 1980 Report to Congress, and the President's Statement of Policy, the Subcommittee generally accepts the Administration's proposed "High Bounds" Program as the recommended program called for in the Forest and Rangeland Renewable Resources Planning Act of 1974 with the exceptions noted in the amended Statement of Policy and the following additional direction deemed appropriate based on areas not sufficiently addressed in the proposed program.

The National Forest Management Act of 1976, an amendment to the Forest and Rangeland Renewable Planning Act of 1974 directs that comprehensive plans for units of the National Forest System be developed by September 1985. These plans will provide a base for evaluating actions proposed on the National Forests and provide information for development of future RPA Assessments and Programs. The Subcommittee expects that as the Forest Land Management Plans are developed the process will provide the Congress with the following information: Forest Plan alternatives will estimate the legal maximum sustained yield of each resource output for the planning area without arbitrary budget constraints. This information will represent production possibilities of goods and services that the National Forests are capable of providing, within the constraints of multiple-use and sustained-yield.

With the possible exception of the timber resource, the data bases used to develop Assessment information must be improved across the board as the programs proposed can only be as valid as the information available upon which they are built.

The overall Forest Service planning process including Research, State and Private Forestry, and National Forest Systems efforts as they relate to private or Federal lands and programs will be expected to improve the data bases in terms of basic resource information, and environmental, economic and social data used in developing the basis for future Assessments and proposed Programs in response to Assessment projections reflecting demands and supply.

This information will be retained in a data base capable of providing the Congress with information on capabilities and tradeoffs involved for its next review of RPA.

The program portrays a Wilderness System of 41 million acres on the National Forests. As of July 1, 1979, there were 15.26 million acres of National Forest System lands in Wilderness. In addition the Administration has recommended another 18.6 million acres for designation.

The Administration has identified an additional 10.6 million acres that will be studied further for possible additional wilderness recommendations. The Congress anticipates that most of the studies will be carried out as a part of the Forest Land Management Planning activity now in progress. The Congress will make the final decisions on the size of the Wilderness System involving National Forest lands.

A third item of emphasis on the Forest Land Management Planning process relates to the question of timber supply. The Assessment identifies the decade of the 80's as a period with significant shortages of softwood to meet expected housing demands. It also identifies as a possible source of supply the large inventories of mature and overmature timber on public lands, particularly on certain National Forests in the West. The President has directed the Secretary of Agriculture to use maximum speed in completing land management plans with the objective of estimating the potential for increased supply from mature and overmature timber through departure from the current nondeclining evenflow policy. The Congress accepts and encourages this effort as a reasonable response to the demand anticipated in the Assessment, however any supply identified is expected to be in addition to the volumes identified for harvest in the Program.

In a broader context the Program indicates that more timber will have to come from private, nonindustrial forest lands rather than the public lands, yet the Program anticipates little additional effort by the Federal Government in any program dealing with taxation or State and private forestry cooperation that would assure greater productivity on these lands. Further, the Program assumes that gaps between market demand and supply will be made up with increasing amounts of timber from foreign sources—principally Canada. Meanwhile, the Province of British Columbia has done its own supply study, that indicated current levels of timber products being shipped to the United States cannot be sustained.

This is a serious flaw in the Program, and an indication that timber supplies must be considered in a global context so that reasonable levels of supply can be planned from all four sources of timber—foreign nations, private, nonindustrial lands, industrial lands, and the public lands. Barring this global examination, it cannot be determined what role the United States supply and demand may be playing on world resources; or what the price of timber can be expected to be between the present and 1985; nor what the Forest Service can do to coordinate and improve its cooperative efforts to restock the nonindustrial lands; nor what the appropriate timber goals may be for the public lands, given multiple-use, and sustained-yield constraints.

The very abbreviated 1980 Report to the Congress has some major flaws that the Program when submitted should deal with. If investments in the National Forest System are reduced, as illustrated in the lower bound program, it will only take a couple of years until National Forest receipts are reduced substantially. Information in the Program should inform the public that receipts to the Treasury are generally greater than prudent investments in the National Forest System.

The Program must adequately reflect and display the required inventory of specfic needs and opportunities for both public and private investments, and differentiate between activities that are capital in nature and those of an operational nature.

The Program must delineate the benefits associated with investments in a manner that permits comparison of anticipated costs with the total related benefits and direct and indirect returns to the Federal Government. It should also discuss and describe priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, and expected results and benefits. Finally, the Program must more fully display personnel requirements needed to satisfy existing and proposed program efforts.

PROPOSED SUPPLEMENT TO THE STATEMENT OF POLICY

The essence of the mission of the U.S. Department of Agriculture is to conserve and enhance the land and water capabilities of the United States in order to provide adequate supplies of food and fiber to the Nation's people at reasonable prices and to provide income security for its farmers.

Within this context the Forest Service shall operate the National Forest System, shall operate cooperative renewable resource programs with the States and private landowners, and it shall carry out a program of research in order to provide more productivity and protection within the framework of the first two program elements.

With respect to the National Forest System, the 1897 Organic Act of the Forest Service says in part:

"No National Forest shall be established except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States."

The Multiple-use, Sustained-yield Act of 1960 enlarged upon the role of the National Forests, saying:

"It is the policy of Congress that the National Forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes."

Therefore, the role of the Federal Government in managing the National Forests is to protect and enhance the land, and to provide goods and services from those lands to the Nation's people. But the first consideration must be the enhancement and protection of the land, both forest and range.

If the following policies are carried out diligently, the lands of the National Forests will be improved, and the direct outputs of forest and range will be increased in a timely manner. Accomplishment of the basic goal of land stewardship will also improve watersheds, fish and wildlife habitat, and enhance outdoor recreation opportunities available on the National Forests.

To enhance the work already begun with the enactment of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), the Subcommittee on Environment, Soil Conservation and Forestry recommends the acceptance of the Statement of Policy as presented by the President, but recommends also that it be amended in the period through 1985 to refine future goals so that the Nation's needs can be supplied in an economically, environmentally, and socially responsive manner from both public and private forest and rangelands.

The Subcommittee recommends the Statement of Policy be amended to describe two long-term goals that seek to focus attention on the capacity of the Nation's forest and rangelands to meet national requirements at home and abroad.

It is projected that by the year 2030, the population of the United States will increase by 80 million to 300 million people.

The Gross National Product is expected to increase from $1.4 trillion to $5.6 trillion. Energy costs will rise more rapidly than other costs.

Significant gains have been made over the past 25 years in improving the condition of the forest and rangeland. However, the economic and social factors cited above will require greater efforts in the decade ahead if future supplies and services are to be available in sufficient amounts in an environmentally sound way.

The National Forest land base in the United States is 737 million acres, of which 482 million acres are capable of producing wood of commercial value. The current average growth rate on the commercial forest base is 45 cubic feet of wood per year, or 60 percent of the average potential growth—74 cubic feet per year.

The current growth level is 21.7 billion cubic feet per year, which is well above current rates of consumption. However, much of this growth is of low economic utility. Therefore, the effective growth rate of commercially useable wood is lower than it would appear.

By the year 2030, it is expected that 28.3 billion cubic feet of wood will be needed each year. The 482 million acres of commercial forest land could produce 35.7 billion cubic feet annually.

The Subcommittee believes that the target goal for forest productivity should be 90 percent of the land's potential by 2030. This would require certain actions on public, industrial, and nonindustrial private lands that would increase average growth from 45 to 67 cubic feet each year by 2030.

Through actions which combine adequate reforestation with genetically improved material of cut over lands, timber stand improvement, better tree utilization and more effective land management, the Subcommittee believes that this goal can be reached with good technology, and appropriate efforts at all levels.

Further, it is not wise to assume that some of the shortages anticipated in goods and services from the forests of the Nation can be made up with supplies from other nations, when there are strong indications that those supplies will not be available. The United States must begin in 1980 to seek self-sufficiency wherever possible, since it takes so many years to grow timber.

Coordinated Federal actions affecting the public lands, the industrial lands and the nonindustrial forest lands can be of significant value in determining the most effective course for the public forests, for cooperative forestry programs, and for research that seeks answers to unsolved problems.

There are 789 million acres of land within the contiguous United States that has high value for commercial grazing and wildlife, as well as important soil and watershed values. This rangeland acreage will undoubtedly bear the brunt of anticipated large demands for outputs of livestock, wildlife, watershed and soil protection. Most of this land is in the West, and two-thirds of it is privately owned.

The capacity to produce forage for livestock and wildlife from rangeland at the medium level of projections, is 365 million animal unit months each year, up from a 1976 base projection of about 213 million animal unit months.

The demand for range grazing is expected to reach 300 million animal unit months by the year 2030. Rangelands are producing forage at only 50 percent of their potential at present. Eighteen percent of the range is classified in poor condition.

The subcommitte recommends that the statement of policy be amended to establish a target whereby in the year 2000, 85 percent of potential range should be in an improved forage-producing state, and that fewer than five percent of the range acres should remain in the poor category.

The RPA program is deficient with respect to forage production, watershed protection and wildlife and fish habitat improvement on America's rangelands. The subcommittee expects the Secretary of Agriculture to use the mechanisms of the RPA and the Soil and Water Resources Conservation Act of 1977 to come up with a series of recommendations for action to provide the range target recomended, using all of the appropriate resources of the Department of Agriculture and the Land Grant Colleges and Universities.

The targets developed in this supplemental Statement of Policy will assist in devising coordinated efforts so that all Federal actions will be measured and tempered by these goals. As a result, the important environmental and multiple resource value concepts will be an integral part of the actions planned and taken each year.

There are many renewable resource uses that cannot be as readily quantified as land condition based upon production of trees and plants. However, if the land is being managed and treated to grow plants at near optimum levels, the Subcommittee believes this growth will be a basic indicator of the land's condition. If the land is in good condition from this standpoint, water, soil, wildlife, fish, recreational, wilderness, and aesthetic values will be substantially improved. It is expected that as further research is conducted, improved systems for measuring these values will be devised. The absence of target levels for these elements indicates that research efforts should be intensified so that measurements for these resources and their uses can be more adequately displayed in 1985.

Finally, the Subcommittee believes that the Statement of Policy should be amended to indicate a desire by the Congress and the Executive Branch that information-gathering activities and program activities associated with the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Soil and Water Resources Conservation Act of 1975 should be carried out in such a way as to avoid duplication of effort and to promote coordination so that the resource interrelationships between the public and private lands can be determined and dealt with in an organized manner.

NATIONAL MINISTERS DAY

Mr. THURMOND. Mr. President, I ask unanimous consent that Senate Joint Resolution 192 be called up, and that the 3-day notice be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Senate Joint Resolution 192 to designate September 21, 1980, as National Ministers Day.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. THURMOND. Mr. President, I would like to state that this has been cleared with the majority and minority leaders.

The resolution (S. J. Res. 192) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, is authorized and requested to designate September 21, 1980, as "National Ministers Day".

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was passed.

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

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. SASSER I ask unanimous consent that there be a star print of S. 2, the Senate bill, and the report, Rept. No 96–865.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4370. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the lawn and vegetation activity at Lexington Blue Grass Depot Activity, Lexington, Ky., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4371. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial management), reporting, pursuant to law, that a study has been conducted with respect to converting the custodial services activity at Tobyhanna Army Depot, Tobyhanna, Pa., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4372. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial management), reporting, pursuant to law, that a study has the custodial services activity at Lexington Blue Grass Depot Activity, Lexington, Ky., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4373. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the refuse collection and disposal service activity at Lexington Blue Grass Depot Activity, Lexington, Ky., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4374. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed letter of offer to the Netherlands for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4375. A communication from the Deputy Director, Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report on experimental, developmental and research contracts of $50,000 or more, by company, for the period January 1, 1980, through June 30, 1980; to the Committee on Armed Services.

EC–4376. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, on the actual term of extension in Docket No. 37322, Coal, Belle Ayr and Eagle Junction, Wyo., to Council Bluffs, Iowa; to the Committee on Commerce, Science, and Transportation.

EC–4377. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a report on the operation of the Colorado River Basin; to the Committee on Energy and Natural Resources.

EC–4378. A communication from the Chairman, Commission on Security and Cooperation in Europe, transmitting, pursuant to law, a report entitled "Report to the Congress on Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Five Years After Helsinki," August 1, 1980; to the Committee on Foreign Relations.

EC–4379. A communication from the Acting Attorney General, Department of Justice, transmitting, pursuant to law, a report on the administration of the Foreign Agents Registration Act covering calendar year 1979; to the Committee on Foreign Relations.

EC–4380. A communication from the Supervisor of Benefits, 12th Farm Credit District, transmitting, pursuant to law, reports on (1) 12th District Farm Credit Retirement Plan, (2) 12th District Farm Credit Thrift Plan, and (3) PCA Deferred Compensation Plan; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2623. A bill to incorporate the United States Submarine Veterans of World War II (Rept. No. 96–888).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 5182. An act to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such Act to the date 20 years after such effective date (Rept. No. 96–889).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes (Rept. No. 96–890).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 192. A joint resolution to designate September 21, 1980, as "National Ministers Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL (on behalf of Mr. CHURCH), from the Committee on Foreign Relations, without reservation:

Ex. G, 96–2. 1980 Food Aid Convention (Ex. Rept. No. 96–43).

Ex. FF, 66–1. 1971 International Wheat Agreement Extension (Ex. Rept. No. 96–44).

Ex. B, 96–2. 1978 Partial Revision of the Radio Regulations (Geneva 1959) (Ex. Rept. No. 96–45).

Ex. C, 96–2. Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Ex. Rept. No. 96–46).

Ex. I, 96–1. Proposed Amendments to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (Ex. Rept. No. 96–47).

Ex. HH, 96–1. Convention on the Inter-American Institute for Cooperation on Agriculture (Ex. Rept. No. 96–48).

Ex. F, G, & H, 96–1. Three Treaties Establishing Maritime Boundaries Between the United States and Mexico, Venezuela, and Cuba (Ex. Rept. No. 96–49).

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

James Bert Thomas, Jr., of Virginia, to be Inspector General, Department of Education.

(The above nomination from the Committee on Governmental Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HARRY F. BYRD, JR. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: In the Reserve of the Army, there are 45 Army Reserve and Army National Guard officers for appointment as Reserve Commissioned Officers of the Army to the grades of major general and brigadier general (list beginning with Brig. Gen. Jason Alfred Aisner); Rear Adm. J. William Cox, Medical Corps, U.S. Navy, for appointment as Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years with the grade of vice admiral, and Vice Adm. David F. Emerson, U.S. Navy (age 53) for appointment to the grade of vice admiral on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. HARRY F. BYRD, JR. In addition, Mr. President, in the Navy there are 1,001 permanent promotions to the grade of lieutenant (list beginning with Mark M. Adams); in the Marine Corps, there are 420 appointments to the grade of chief warrant officer (W–4) and below, as well as one appointment to the grade of major (list beginning with John Bartusevics); and, in the Regular Air Force, there are 3,486 promotions to the grade of captain (list beginning with Gerald W. Abbott). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on July 21 and July 23, 1980, 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 time by unanimous consent, and referred as indicated:

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. NELSON):

S. 3012. A bill to amend the Internal Revenue Code of 1954 to eliminate the require-

ment that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (by request):

S. 3013. A bill to create a Cuban/Haitian Entrant status, and for other purposes; to the Committee on the Judiciary.

By Mr. HART:

S. 3014. A bill to provide for the subsistence electrical and natural gas needs of elderly residential consumers, promote equity in electrical costing and natural gas through reform of current electric and natural gas rate structures, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS (for himself and Mr. BAUCUS):

S. 3015. A bill to establish within the National Aeronautics and Space Administration a comprehensive program of automotive research and technology development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 3016. A bill to improve efficiency, effectiveness, and productivity at all levels of government through fuller use of Federal research and development resources of Federal laboratories, to provide for the establishment of Offices of Research and Technology Applications in Federal laboratories, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ARMSTRONG (for himself, Mr. WALLOP, Mr. DECONCINI, Mr. GOLDWATER, Mr. SCHMITT, Mr. HATCH, Mr. GARN, Mr. CANNON, Mr. SIMPSON, Mr. HART, and Mr. HAYAKAWA):

S. 3017. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Energy and Natural Resources.

By Mr. HART:

S. 3018. A bill to amend the Congressional Budget Act of 1974 to require the President to report to the Congress whenever an executive agency plans to expend more than 20 percent of its budget within a 2-month period; to the Committee on Governmental Affairs and the Commitee on the Budget, jointly, pursuant to order of August 4, 1977.

By Mr. DANFORTH (for himself, Mr. DOLE, Mr. TALMADGE, and Mr. BAUCUS):

S. 3019. A bill to provide for demonstration projects whereby medicare patients receiving chemotherapy or radiation therapy may be housed and boarded in settings other than inpatient hospital facilities; to the Committee on Finance.

By Mr. RIBICOFF (for himself and Mr. ROTH) (by request):

S. 3020. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes; to the Committee on Finance.

By Mr. McGOVERN (for himself and Mr. NELSON):

S. 3021. A bill to amend certain provisions of the Federal Power Act, 16 U.S.C. 791a et seq., relating to preferences in issuance of preliminary permits or licenses; to the Committee on Energy and Natural Resources.

By Mr. BELLMON:

S. 3022. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers, and to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes; to the Commitee on Labor and Human Resources.

By Mr. DECONCINI:

S. 3023. A bill to amend section 547 of Title 11 of the United States Code, dealing with preferences in bankruptcy cases; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. NELSON, Mr. LEVIN, Mr. JAVITS, Mr. EAGLETON, Mr. GLENN, Mr. BIDEN, Mr. LUGAR, Mr. BAYH, Mr. BOREN, Mr. BRADLEY, Mr. METZENBAUM, Mr. MITCHELL, Mr. HOLLINGS, Mr. STEWART, Mr. SARBANES, Mr. MELCHER, Mr. WILLIAMS, Mr. DURKIN, Mr. EXON, Mr. DOLE, Mr. BENTSEN, Mr. KENNEDY, Mr. LEAHY, Mr. SASSER, and Mr. BUMPERS):

S.J. Res. 193. A joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. NELSON):

S. 3012. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT INSURANCE

Mr. JAVITS. Mr. President, as the current recession deepens and unemployment continues to increase it is essential that our Federal-State unemployment insurance system operate effectively to protect the hundreds of thousands of experienced workers who lose their jobs through no fault of their own. Unfortunately, a recent change in the unemployment insurance system is causing great hardship for older workers in our Nation's labor force and I believe the corrective legislation is urgently needed.

I am therefore today introducing a bill, S. 3012, to eliminate the retirement income offset from the unemployment insurance laws. This provision constitutes one of the most unfair and inequitable requirements Congress has imposed on a social insurance system. I am pleased to be joined in cosponsoring this bill by Senators WILLIAMS, RIEGLE, MOYNIHAN, and NELSON and I hope that other Senators will join us promptly.

In brief, the retirement income offset requires every State to reduce the unemployment compensation entitlement of workers, dollar for dollar, by the amount of social security benefits, private or public pensions, or any other retirement income they receive.

Those who argue that an individual receiving retirement income should not be entitled to receive unemployment compensation assume that retired persons—persons drawing social security or pension benefits—are, by definition, no longer active members of the work force. That view, however, ignores the sad and stark realities of the world. It is clearly and plainly incorrect. It reflects a fundamental misunderstanding of the nature and experience of older workers, of the basic purposes of the unemployment compensation system, and of the effectiveness of retirement income security mechanisms now in place.

The pension offset concept is actually a crude device designed to prevent abuse of the unemployment insurance system by individuals who actually retire from the work force and then draw unemployment compensation based on their preretirement earnings in order to supplement their retirement income. At the outset, we must recognize that the unemployment insurance system already contains a mechanism which, if properly administered, prevents such abuse. Federal law mandates, and every State law provides, that workers are to be disqualified from receiving unemployment compensation unless they are both available for work and actively seeking employment. Claimants who seek to take advantage of the unemployment compensation system to achieve a temporary windfall upon retirement should be disqualified from such benefits by State agencies on the ground that they are not actively engaged in seeking employment.

We must also recognize—and indeed Congress has found—that retirement income programs today are not adequate to provide even the basic amenities of life for many older Americans who have given much of their life to productive, industrious work. In enacting the Employee Retirement Income Security Act (ERISA) 6 years ago, Congress found—

> * * * that despite the enormous growth of (Retirement Income Plans) many employees with long years of employment are losing anticipated retirement benefits.

In 1973, the Committee on Finance reported a predecessor of ERISA to the Senate finding that—

> One of the most important matters of public policy facing the nation today is how to assure that individuals who have spent their careers in useful and socially productive work will have adequate incomes to meet their needs when they retire.

It is beyond serious debate that one of the primary factors that motivated the Congress to enact the landmark ERISA legislation was the inadequacy of benefits provided by many existing pension and other retirement plans. It is certainly my hope, as one of its principle architects, that ERISA will operate to assure that when today's workers retire they will be able to live comfortably on the benefits provided by their retirement plans.

The plain, cold fact is that such hope has not yet come to reality. Millions of American workers have retired on pensions that are inadequate to meet their day to day needs, and provide no cushion against inflation or the potential for illness and infirmity that haunt older Americans. Many so-called retired workers, unable to enjoy the comfortable retirement their long labors have earned them, are required to seek employment to supplement their inadequate social security and pension benefits.

Put simply, it is a misconception that retirement as represented by receipt of retirement benefits constitutes withdrawal from the work force. Many so-called retired workers remain active members of the work force because their retirement income is insufficient to support them, or because they choose to remain employed. Many more older

workers would like to remain active members of the work force if they could find renumerative employment. The pension offset provision operates upon the erroneous presumption that recipients of retirement income are not longer members of the work force. It assumes this without regard to the amount of retirement income received.

The pension offset provisions also constitute a gross and unfair repudiation of the principles upon which the Federal-State unemployment insurance system is based. Unemployment insurance is not a social welfare system—but rather a social insurance program. Its purpose is to maintain an individual's standard of living during periods of unemployment by restoring part of lost income during periods of job search. The unemployment insurance program is financed by a separate tax levied against employers, and the proceeds are segregated in a special trust fund from which benefits are paid.

Benefit entitlement is based on a worker's labor market attachment—his earnings and work experience during a set period prior to experiencing unemployment. Benefit levels—and benefit entitlement—are not based on need and are not reduced on the basis of an unemployed worker's assets or other nonemployment related income.

Given these principles, it is particularly egregious that we have singled out one type of income—retirement benefits—from all others to reduce or eliminate unemployment benefits. The nature of retirement benefits highlights particularly the unfairness involved. To the extent retirement income is based upon employee contributions, it is simply a savings program. Yet we do not reduce UI benefits because of ordinary savings held by an unemployed worker.

To the extent retirement income is based upon employer contributions to a pension plan, it is a form of deferred compensation. Yet we do not require the States to reduce unemployment insurance benefits by amounts received from other deferred compensation programs.

That many retired workers must find employment after retirement is a documented fact. When such workers are laid off they must rely on unemployment insurance to support themselves—just like younger unemployed workers.

In November 1978, the New York State Department of Labor conducted a survey of unemployment insurance recipients who also received retirement income. That study found—

Although pensioned workers are commonly referred to as retired workers, receipt of a pension based on former service is not automatically identifiable with retirement from the labor market. Many of the pensioners who were receiving unemployment insurance benefits in November 1978 first applied for pensions years ago. About half claimed pensions before 1977. Fifteen percent first received pensions in 1970 or earlier. Among the pensioners who were 72 years of age or older at the survey date, three-fifths first applied for pensions in 1970 or earlier. Many were still working because pensions of old times were no longer adequate.

Three-fourths of the pensioners in the survey reported some base-year employment that was later than the date of their pension application. About 60 percent applied for pensions before their base year began.

The study found that 63 percent of those receiving unemployment insurance benefits and retirement benefits claimed unemployment insurance benefits based entirely on labor force attachment and earnings occuring after their retirement; three-fourths had some labor market attachment after their retirement. These data demonstrate that the overwhelming majoriy of workers receiving both unemployment insurance and retirement income benefits are gainfully employed after retirement because of a need or desire to supplement retirement income. They are not workers who claim unemployment insurance benefits directly after retirement seeking to reap a windfall from the unemployment insurance system.

Even in the case of an individual who retires with a pension and claims unemployment insurance benefits based on employment with the pensioning employer, it should be understood that in many cases the decision to retire has not been a voluntary one. The New York State study to which I have referred found that 42 percent of retired unemployment insurance claimants applied for retirement benefits because they were laid off from jobs at which they wanted to continue working. An additional 25 percent of the joint unemployment insurance-retirement income recipients in that study reported that they claimed retirement benefits only after they were forced to retire by a company mandatory retirement policy. Only 17 percent reported voluntarily leaving their employment and then claiming retirement benefits. Even among these individuals, the study notes that some unemployment insurance claimants retired and claimed retirement benefits intending to maintain labor market attachment. Policemen and retired military officers who work in the private sector after "retirement" are but two such examples.

Another inequity of the retirement income offset is that it constitutes a substantial financial incentive for employers to single out for layoff older workers who are either eligible for, or already receiving, retirement benefits. As I have noted, unemployment insurance benefits are financed by a payroll tax levied on employers. The rate of that tax is based on an individual employer's so-called experience rating. The experience rating is determined by the number of unemployment insurance recipients claiming benefits based upon employment with that employer, and the amount of benefits paid to such claimants.

Thus, when an employer lays off a portion of his work force, and those laid-off employees claim unemployment insurance benefits, the unemployment insurance tax rate the employer must pay on his remaining payroll increases. If, however, an employer can lay off workers who are not eligible to claim unemployment insurance benefits, or who will be eligible only for reduced benefits, because of the retirement income offset, he can eliminate or at least significantly reduce the effect on his unemployment insurance tax rate.

The effect of this can best be understood with reference to employers who self-insure under the unemployment insurance system. Self-insuring employers —primarily State and local government agencies—do not pay unemployment insurance taxes. Instead, they reimburse their State employment security agency for the actual cost of unemployment insurance benefits paid to their former employees based on employment with the self-insurer.

Thus, for example, if a self-insuring employer lays off 10 workers who claim unemployment insurance benefits at an average entitlement of $100 per week, the State employment security agency will bill that employer $1,000 for each week those laid-off workers collect unemployment insurance benefits. If, however, 5 of the 10 laid-off workers are receiving retirement benefits in excess of their unemployment insurance entitlement—here as little as $4,800 per year—they will receive no unemployment insurance benefits. This hypothetical self-insuring employer would then save $500 per week by choosing to lay off workers who are receiving retirement benefits. If the employer is in a State that has the customary maximum benefit duration of 26 weeks, it would save $2,600 per employee—$13,000 for our hypothetical 5 employees—$130,000 if it laid off 50 workers who were disqualified by the pension offset.

Although the calculations are more complicated and the benefits less immediate, employers who pay payroll taxes will reap similar benefits by electing, where possible, to lay off workers who are disqualified by the retirement income offset provisions.

For 13 years it has been our explicit national policy to prohibit employment discrimination based on age. I am pleased to have been the sponsor of the Age Discrimination in Employment Act of 1967. Only 3 years ago Congress broadened the protections of that act to prohibit age discrimination against employees up to age 70. In the face of this clear national commitment to eradicate age-based employment discrimination, it is disgraceful to enact into Federal law so blatant an incentive to age discrimination as is contained in the unemployment insurance retirement income off-set.

When that provision first was proposed by the Finance Committee as an amendment to the House-passed Unemployment Compensation Amendments of 1976, it would have denied all unemployment compensation to anyone receiving retirement income, no matter how small the amount. After I voiced my oposition to this provision on the Senate floor, the provision was modified, first to provide a dollar-for-dollar offset, and second to delay the provision's effective date so the issue could be studied by the National Commission on Unemployment Compensation.

The Commission examined the issue, and in its interim report of 1978 unanimously recommended that the entire pension offset provision be repealed. The bill we are introducing today would accomplish that result. I expect that further evidence supporting the repeal of this pernicious provision will be contained in the Commission's final report, due next week.

Mr. President, the Commission's Chairman testified before the House Ways and Means Committee in support of the Commission recommendations to repeal the pension offset. He noted the following major points:

(1) Both pensions and unemployment insurance benefits represent deferred compensation for services rendered at an earlier date. The risks that are covered are not duplicative, and protection is appropriate for each.

(2) The repeal is warranted by the recent change by Congress extending compulsory retirement age by employers from age 65 to 70.

(3) All employees contribute to social security and many contribute to other pension plans. The current provision could be perceived as a policy decision opposing individual saving.

(4) State unemployment compensation administrators oppose a Federal standard that enters an area traditionally left to the States. Additionally, many administrative problems arise from the present provision.

(5) While State laws vary considerably on this issue, only 14 States have enacted conforming legislation and eight of these are conditional upon continuation of the current Federal requirement.

The unemployment insurance system represents a unique program of Federal and State cooperation. It is not a perfect system. Nonetheless, it constitutes the first line of defense for millions of American workers against the ravages of recession. Older workers no less than their younger counterparts are in need of and entitled to the protections of that program.

Experience has taught us that even without the incentives of the pension offset, older workers are frequently the first laid-off and last rehired in a recession. Millions of older workers are active participants in the labor force despite their eligibility for and receipt of some form of retirement income. I see no good reason why we should single out such workers for special hardship during periods of unemployment.

Mr. President, I ask unanimous consent that the text of the bill, together with excerpts from the interim report of the National Commission on Unemployment Compensation, be printed at this point in the RECORD.

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

S. 3012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out paragraph (15) and by redesignating paragraphs (16) and (17) as paragraphs (15) and (16) respectively.

SEC. 2. The amendment made by Section 1 of this Act shall apply with respect to certifications of State programs for 1980 and subsequent years.

EXCERPTS FROM INTERIM REPORT OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

5.1 RETIREMENT PAYMENTS AND UNEMPLOYMENT COMPENSATION BENEFITS

Legislative history

Public Law 94–566, "The Unemployment Compensation Amendments of 1976," added to requirements for approval of State unemployment compensation laws (for employer offset credit against the Federal Unemployment Tax) provision that: "the amount of compensation payable to an individual for any week which begins after September 30, 1979 (later amended to March 31, 1980), and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity or other payment, which is reasonably attributable to such week."

No such provision was contained in H.R. 10210 (which upon enactment became Public Law 94–566) as passed by the House of Representatives. It was added in a Senate amendment. As originally recommended by the Senate Finance Committee, the legislation would have prohibited payment of any benefits to an individual receiving a pension, annuity or other retirement pay, in any amount, effective January 1, 1978.

When the bill came to the Senate floor, the present language was substituted. Additionally, the National Commission on Unemployment Compensation was charged with: "evaluation of the feasibility and desirability of restricting the eligibility for receipt of unemployment compensation to persons eligible to receive a pension or retired pay, annuity, or any similar periodic payments."

The conference report stated:

"The conference agreement follows the Senate amendment, except that the requirement would not take effect until 1979, thereby permiting the National Commission on Unemployment Compensation an opportunity for a thorough study of this issue and the Congress to act in light of its findings and recommendations."

In floor discussion on a Senate measure to extend the effective date of the present provision, consistent with an extension of the due date of the final report of the Commission, the sponsor said:

"We need the national commission's views on this provision (the current language), which does not even distinguish between workers receiving pension benefits from a pension fund based upon their own contributions—which may be either voluntary or mandatory—and those who receive benefits from plans which are financed entirely or in large part from employer contributions. Indeed, the provision would exclude from UI payments persons receiving benefits under plans for the self-employed or individual retirement accounts for workers whose employers do not offer retirement plans." (parenthetical language added.)

When the House of Representatives passed H.R. 12232, extending the due dates for the reports of this Commission, a similar extension of the effective date of the provision on pension deduction, from March 31, 1980, to May 31, 1981, was included. This extension was eliminated by the Senate because the issue of a possible conflict with the Budget Act had been cited. Accordingly the Commission finds it desirable to make its recommendation on the issue in this First Interim Report so that the President and the Congress may have sufficient lead time to consider the subject before the March 31, 1980, effective date.

Commission considerations

In addition to reviewing information on the subject during the period since March 1978, the Commission heard testimony from spokespersons for the National Council of Senior Citizens, several veterans organizations, and the Interstate Conference of Employment Security Agencies, representing the administrators of the State unemployment compensation laws.

The Commission is heavily influenced by the arguments that pension payments are not, simply, a substitute for lost wages. Conceptually, there is no unanimity of agreement as to whether unemployment compensation and pensions are duplicative, since they do not derive from efforts to meet the same risk.

The right to unemployment compensation benefits is based solely on recent employment in which services were performed during a specific period, generally during a period of 12 months, the beginning date of which is no earlier than 18 months prior to the date of claim. A pension or annuity may, and frequently does (especially in Social Security), derive from the totality of the lifetime of work experience of an individual.

Should an individual who is involuntarily unemployed and in the active job market be denied the same benefits as those payable to all other job seekers because his past work, extending over a long period of years, has earned him certain retirement rights? (In the case of Social Security, most pensions from Federal, State and local governments, and many private employers, the workers has participated substantially in the cost.)

Witnesses have suggested to the Commission that the new provisions would introduce a form of "needs" test to the unemployment compensation system, inconsistent with the insurance concept on which the program is grounded, since this would treat differently groups of claimants whose qualifications for benefits are identical. Not only would claimants eligible for previously-earned retirement income be discriminated against as contrasted to others not similarly entitled, but additionally, individuals entitled to Social Security or company pensions would have their benefits reduced or eliminated, but recipients of less obvious income such as interest on savings, dividends on securities, rentals on real estate, or the rent-free use of housing owned by the claimant, would not have their benefits reduced. The provision seems to create a public policy favoring employers who do not provide pensions against those who do.

It was stated that pensions were indeed an earned right, a part of the previous conditions of employment. Generally the costs of pensions represent payments not made to an individual in wages during the period over which pension rights have accrued. It has been said to be particularly so where pension rights are established as part of the collective bargaining process. An individual's right to benefits based on recent employment may be reduced or eliminated because of a pension based on services that occurred many years earlier. And, as indicated earlier, the pension, under certain circumstances, may have been paid for entirely by the worker.

The Commission recognizes that many believe that a distinction should be made in those instances in which the worker claims benefits from the same employer for unemployment compensation and retirement, while others believe that such a distinction would be contrary to the pooled-insurance concept on which the unemployment compensation system is based.

At the present time, States vary in provisions as to reduction of unemployment benefit payments because of pension income. While most States which deduct from UI benefits do so only where the pension is from a base period employer (24), 13 States do so with regard to pension from any employer. Since the enactment of Public Law 94–566, there has been little new State action. Those States whose laws are not consistent with the new Federal requirement appear to be awaiting definitive action by the Congress. Only one State, New Mexico, has made changes in State law to conform to the Public Law 94–566 requirements. Another, New

Hampshire, did so amend its State law but later repealed the action.

Three types of claims are involved in this issue: regular State unemployment compensation; unemployment compensation for Federal employees (UCFE) which are generally determined under applicable State law, and unemployment compensation for ex-service personnel (UCX), which are determined under State law except as otherwise specified.

(Appendix 6.4 includes a comprehensive set of tables on provisions of State laws.)

All States consider voluntary retirement to be a quit without "good cause", subject to disqualification. "Good cause" is determined in accordance with State law, as is any other issue relating to separation from work. Similarly, the disqualification to be imposed would also vary in accordance with State law, ranging from a postponement of benefit payments for a limited number of weeks to a disqualification for the entire period of unemployment and a requalifying requirement of a number of weeks of work of the dollar equivalent in new wages.

These considerations apply to both State unemployment compensation and UCFE claims. With respect to UCX, wages earned in the military service are not available to a claimant if service was for less than 90 days (unless terminated earlier because of service-incurred injury or disability) or if he was discharged under dishonorable conditions or for bad conduct. Except for this limitation, cause of separation is not an issue in eligibility for UCX benefits. However, the decision as to deductibility of pension for service in the armed forces, now determined under State law, would be subject to the new Federal requirement.

Conclusions and recommendation

Irrespective of the wide range of reasons that would impel a probable finding that a pension deduction is not appropriate in the unemployment compensation program, the Commission is constrained to make its recommendation on this issue for another clear-cut reason—that this is not presently an area in which a Federal requirement is appropriate. States which have taken action in this direction because of the March, 1980, requirement should reevaluate this action if the Federal standard is eliminated.

Under the current conditions of the Federal-State relationship, all the basic elements of benefit eligibility for regular benefits are left to State determination. These include the extent and nature of work force attachments required for eligibility, the dollar amount of weekly benefits and the number of weeks for which such benefits shall be paid, and the conditions under which an individual may be disqualified or have his right to benefits postponed or curtailed.

Only if it is decided that detailed standards, setting either general or specific guidelines for benefit provisions in State laws are necessary or desirable, should this issue be considered as within the scope of policy determination at the Federal level.

The present Section 3304(a)(15) of the Federal Unemployment Tax Act sets a deadline of March 31, 1980, for adoption of the restriction on benefit payments in all State laws. This Commission is currently instructed to make its final report to Congress by no later than June 30, 1979. Any recommendation of the Commission would require some two to three years before implementation at Federal and State levels can be accomplished.

The Commission accordingly recommends to the President and the Congress that Section 3304(a)(15) of the Federal Unemployment Tax Act be repealed. States should carefully review present provisions of State law if the Federal requirement is repealed.

● Mr. WILLIAMS. Mr. President, I join today with the Senator from New York (Mr. JAVITS) in introducing legislation to repeal the ill-advised Federal law that, since April of this year, has required the States to reduce or deny unemployment compensation benefits for several hundred thousand older workers across the Nation.

Our bill would nullify the requirement of the Federal Unemployment Tax Act which requires that unemployment benefits be reduced by the amount of any pension or retirement benefits.

This "pension-offset" provision, which I have opposed since it surfaced in the Senate 4 years ago, attacks directly the rights of older Americans who have worked hard throughout their lives, contributed to both a pension fund and the unemployment insurance fund, and now are trying to make ends meet on meager, fixed incomes.

They have earned the right to social security benefits, private pensions, or Government retirement benefits during their working years—in most cases making half or more of the contributions to the pension fund. Some have supplemented their employer-based pensions with individual retirement accounts comprising solely their own contributions. Self-employed persons similarly have established personally funded Keogh retirement plans. Veterans retired on pensions that constitute deferred compensation after 20 years or more of poorly paid military service.

All of these sources of retirement income—employee financed or not—have been used since April to offset unemployment benefits to which workers are separately entitled on the basis of substantial earnings over substantial periods of time as an active member of the labor force.

In too many cases, pension benefits are either below the poverty level or insufficient to meet the rising costs of food, housing, clothing, transportation, and medical care. As a result, retirees have been forced to return to work in order to supplement their retirement income.

In other cases, unexpected corporate decisions to close a production or service facility have left large groups of workers suddenly without jobs. In New Jersey, plant closings have put more than 12,000 persons out of work this year alone. Many older workers in these circumstances have little choice but to retire prematurely, with the reduced pensions that result, when other work or opportunities for transfer are not readily available.

In all such cases, however, the unemployment benefits upon which they relied for a measure of cash assistance have been reduced or eliminated, leaving them an unhappy choice between deprivation or welfare if no other work can be found.

In my home State of New Jersey, some 13,500 older workers have been affected by this cruel and unfair provision of Federal law since its April first effective date. Although comprehensive data are not available for all of the States, we believe that 300,000 persons or more have experienced the anger and frustration of learning belatedly that their unemployment benefits are far less than they had anticipated and had every right to expect.

The extremely broad and encompassing language of the current Federal requirement, allowing for no exceptions to a dollar-for-dollar benefit reduction has resulted in inequity upon inequity. The proposal to modify that requirement, adopted by the Senate last Tuesday night as an amendment to H.R. 3904, the ERISA legislation, would reduce the harmful effects of current law, but not eliminate them altogether. Those modifications would reduce the number of retirees who would suffer the cut in unemployment benefits to which they have a right under the unemployment insurance system. Some would suffer smaller reductions in those benefits than under current law.

However, there remains the unacceptable discrimination against older workers whose retirement income derives from pensions or annuities. For these workers, unemployment benefits frequently would be reduced by some or all of the amount of their retirement benefits. But there would be no such offset for those who have retired on the proceeds of regular savings, life insurance, real estate holdings, or investments in securities.

The modifications provide that the States "may" take account of employee contributions to the pension fund, but they should flatly so require and are deficient in this respect. Denying an involuntarily unemployed older worker full entitlement to unemployment compensation benefits, reducing them by the amount of the claimant's own contributions to a pension fund, is one of the patent inequities of current law that probably would remain in some States. The most glaring case in point involves an individual who was self-employed during his regular working years and established a Keogh plan retirement account entirely with his own funds. After retirement and having been laid off from a job that may have been necessary or survival, he finds that his own financial resources are used to reduce his unemployment benefits. This kind of treatment should be flatly prohibited.

Another deficiency of the modifications is that some unemployed workers still would have their unemployment benefits reduced, even if the employer who funded their pension is not the same employer who is charged for the unemployment benefits. In other cases, social security recipients would continue to lose unemployment benefits to the extent of half or somewhat more of their social security benefits.

Finally, the modifications make no allowance for the fact that employees as well as employers in New Jersey, Alaska, and Alabama are taxed for contributions to the State unemployment insurance fund. This may be the most serious affront to fairness in connection with the pension-offset. When employees have contributed for years to the unemployment fund but are denied benefits when they need them most, it is not difficult

to understand why they feel cheated by their Government. In New Jersey, this special employee tax has been in effect since 1938; many older workers have paid into the unemployment fund throughout their working lives but never had the need for benefits until now, only to be told that their unemployment insurance has been canceled because they are receiving a pension.

Mr. President, the pension-offset requirement was enacted originally in haste and with little attention to its unfortunate consequences. It was included in a broad unemployment compensation reform bill without opportunity for public testimony on this particular provision. The conference report on that omnibus bill contained expressions of apprehension about the pension-offset, mandating detailed study and recommendation by the new National Commission on Unemployment Compensation and delaying the effective date of the requirement until the Commission could report.

The apprehensions of the conferees were well justified. The National Commission unanimously recommended repeal of the pension offset in testimony before the House Unemployment Compensation Subcommittee and the Senate Finance Committee last September.

Efforts in both the Senate and the House of Representatives to modify the pension-offset, rather than repeal it, would reduce the impact of its inequities but, as I have indicated, would not eliminate them. While there would no longer be a lifetime bar against full unemployment compensation benefits for retirees, the other inequitable implications of the pension-offset remain to some degree. Moreover, those efforts to tailor the requirement to minimize its discriminatory effects will result in a host of difficult, if not in some respects impossible, administrative problems for State unemployment insurance systems.

For these reasons, Mr. President, I endorse the recommendation of the National Commission that the pension-offset be repealed, join with Senator JAVITS in introducing a bill that would accomplish the repeal, and urge my colleagues to give it their full support and immediate attention.●

By Mr. KENNEDY (by request):

S. 3013. A bill to create a Cuban/Haitian entrant status, and for other purposes; to the Committee on the Judiciary.

HAITIAN AND CUBAN REFUGEES

AMENDMENT NO. 1962

● Mr. KENNEDY. Mr. President, I am introducing today, by request, the administration's legislative proposal to create a Cuban/Haitian entrant status under the Immigration and Nationality Act.

I am also submitting, Mr. President, an amendment in the nature of a substitute. My amendment will simply declare the Cubans and Haitians covered in the administration's bill to be deemed "refugees" under the terms of Public Law 96-212, the Refugee Act of 1980, and make them eligible for all the benefits and assistance that act provides.

Mr. President, I oppose the administration's approach simply because it is unnecessary. The administration could and should have used the Refugee Act to deal with this problem.

We can debate whether the Cubans and Haitians are refugees. I believe the record shows that most are. Clearly, some are not. Those who are criminals have been detained and should be deported. Others are seeking and should be assisted in finding third country resettlement. But the remainder have been admitted to the United States under the Attorney General's parole authority, and they are here. That is the plain fact. And they should be given the same Federal assistance all refugees receive.

Under the administration's proposal, Cuban/Haitian entrants look like refugees, are treated as refugees, but considered only being 75 percent refugees for the purposes of Federal assistance. This has quite properly been protested by the States, local communities, and voluntary agencies who are being asked to fund a Federal program. The Cubans and Haitians are here, they are going to stay, and they should not be dumped upon the communities across our Nation.

Mr. President, the Congress enacted the Refugee Act just 4½ months ago to avoid treating each new refugee situation on an ad hoc basis, requiring new authorities to deal with it. If the President refuses to utilize the authorities and tools which Congress has given him to deal with the admission and resettlement of Cuban and Haitian refugees, then Congress has no other alternative than to legislatively declare the Cubans and Haitians as "refugees" under the terms of the Refugee Act. This is what my substitute amendment accomplishes.

I ask unanimous consent that the text of the administration's proposal and bill, as well as my amendment, be printed at this point in the RECORD.

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

S. 3013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cuban/Haitian Entrant Act of 1980".

SEC. 2. (a) Except as provided in subsection (c) of this section, the following aliens shall be granted Cuban/Haitian Entrant status 30 days after enactment of this Act and may remain in the United States under such conditions as the Attorney General may deem appropriate:

(1) Nationals of Cuba who were paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act after April 20, 1980, and before June 20, 1980;

(2) Nationals of Haiti who on June 19, 1980, were the subjects of exclusion proceedings under section 236 of the Immigration and Nationality Act, including those who on that date were under orders of exclusion and deportation which had not yet been executed;

(3) Nationals of Haiti who on June 19, 1980, were the subjects of deportation proceedings under section 242 of the Immigration and Nationality Act, including those who on that date were under orders of deportation which had not yet been executed;

(4) Nationals of Haiti who were paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act before June 20, 1980, and were physically present in the United States on that date; and

(5) Nationals of Cuba or Haiti who on June 19, 1980, had applications for asylum pending with the Immigration and Naturalization Service.

(b) The Attorney General may in his discretion grant an alien described in subsection (a) of this section authorization to engage in employment in the United States and provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) Cuban/Haitian Entrant status for any alien may be denied or terminated by the Attorney General in his discretion pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien is excludable under § 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182) (except paragraph (14), (15), (20), (21), (25) or (32) of subsection (a)), or if the Attorney General determines that

(1) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(2) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(3) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(4) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

SEC. 3. (a) Notwithstanding any numerical limitations in the Immigration and Nationality Act, the Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of a Cuban/Haitian Entrant to that of an alien lawfully admitted for permanent residence if the alien

(1) applies for such adjustment,

(2) is not firmly resettled in any foreign country,

(3) has been physically present in the United States for at least two years after being granted such status, and

(4) is admissible (except as otherwise provided in subsection (b)) as an immigrant under the Immigration and Nationality Act at the time of examination for adjustment of such alien.

(b) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to an alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

SEC. 4. Special Reimbursement Authority for Services and Other Assistance to Cuban/Haitian Entrants for Fiscal Year 1981.

(a) State Plan. Any State intending to claim reimbursement under this section shall, as a condition to the receipt of such reimbursement, submit for the approval of the Secretary of Health and Human Services a State plan. The plan shall describe the need of Cuban/Haitian Entrants for services and other assistance, the particular activities for which amounts will be expended by the State to meet those needs, and the review and supervision that will be performed by the State to assure the proper expenditure of funds for which such reimbursement is sought.

(b) Cash and Medical and Other Services. The Secretary of Health and Human Services is authorized to reimburse from available appropriations (directly or through arrangements with other Federal agencies) not to exceed 75 per centum of the amounts, but only to the extent found necessary in accordance with criteria prescribed by the Secretary in regulation, expended by—

(1) State and local public agencies, in providing cash assistance to Cuban/Haitian Entrants other than those eligible for cash benefits under title XVI or part A of title IV of the Social Security Act, and of providing medical services to Cuban/Haitian Entrants other than those eligible for medical assistance under title XIX of such Act;

(2) State and local public agencies, in furnishing approved services or other approved assistance to Cuban/Haitian Entrants for the purpose of—

(A) providing health (including mental health) services, social services, and educational and other services,

(B) assisting such individuals in obtaining the skills necessary for economic self-sufficiency, including job training, employment services, and day care, and

(C) providing training in English where necessary (regardless of whether the individual is employed or receiving cash or other assistance); and

(3) State and local public agencies, in providing, to Cuban/Haitian Entrants who are children, child welfare services, including foster care maintenance payments and services and health care, but excluding any such payments, services, or care available to such a child under the State's plan approved under part A or part E of title IV of the Social Security Act, or under title XIX of such Act.

(c) Services for Children in Elementary or Secondary School. The Secretary is authorized to reimburse from available appropriations, directly or through arrangements with other Federal agencies, not to exceed 75 per centum of the amounts expended for projects to provide special educational services (including English language training) to Cuban/Haitian Entrants who are children in elementary or secondary schools.

(d)(1) Payments with Respect to Unaccompanied Children. In the case of a Cuban/Haitian Entrant who is a child unaccompanied by a parent or other close adult relative (as defined by the Secretary)—

(A) notwithstanding the preceding provisions of this section, the Secretary is authorized to pay 100 per centum of the reasonable expenditures for assistance or services furnished to or on behalf of such a child for whom the State has assumed legal responsibility, including aid to families with dependent children under part A of title IV of the Social Security Act, State supplementary payments under section 1616 of such Act, and medical assistance under title XIX of such Act, and

(B) payments with respect to such an unaccompanied child will be available with respect to any such assistance or services furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of such Act prescribes for the availability of such services to any other child in that State).

(2) Interim Responsibility. During any interim period while a Cuban/Haitian Entrant who is an unaccompanied child is in the United States but before placement has been arranged for such child under the laws of a State, the Secretary or his designee shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

(e)(1) Limitation on Payment. Except as provided in subsection (d)(1)(B), payments under this section with respect to a Cuban/Haitian Entrant shall only be available for assistance or services furnished to such individual during the twelve-month period beginning July 1, 1980, or, if he has been in a Federal processing center or Federal custody, the month in which he leaves such center or custody, if later. No amounts shall be paid to a State or local agency under this section for costs incurred after September 30, 1981, except for services for unaccompanied children and for individuals leaving a Federal processing center or Federal custody after September 30, 1980.

(2) For purposes of this section, there shall not be included for reimbursement any amounts provided in kind.

(f) Administrative Costs; Recordkeeping and Records of Expenditures.

(1) The Secretary is authorized to reimburse State and local public agencies from available appropriations not to exceed 75 per centum (or, with respect to assistance or services referred to in subsection (d)(1)(A), 100 per centum) of the administrative costs which the Secretary determines are necessary and directly related to the provision of assistance or services for which payment is provided under this section.

(2) As a condition to reimbursement under this section, any agency or organization seeking payments under this section shall keep such records and make such reports pertaining to expenditures for which payment is sought as the Secretary may require and shall comply with such other provisions as the Secretary may find necessary to assure the correctness and verification of those records and reports.

(g) Reimbursement for Cuban/Haitian Entrants Granted Asylum. No amount shall be available under chapter 2 of title IV of the Immigration and Nationality Act for payment of costs incurred in providing services or other assistance to an individual after he has been granted Cuban/Haitian Entrant status.

(h) Closing Date on Reimbursement for Certain Applicants for Asylum. Section 401 of the Refugee Act of 1980 is amended by striking out "at any time" and inserting in lieu thereof "at any time prior to July 1, 1980".

SEC. 5. (a) An alien granted Cuban/Haitian Entrant status may not apply for asylum under § 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and any application for asylum under § 208 or under any other provision of law filed by the alien but not approved before the alien was granted Cuban/Haitian Entrant status shall be denied.

(b) Subsection (c) of § 208 of the Immigration and Nationality Act (8 U.S.C. 1158) and subsection (b) of § 209 (8 U.S.C. 1159) of that Act shall not be applicable to an alien granted Cuban/Haitian Entrant status or to the spouse or child of such alien.

SEC. 6. Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended by striking out "six months" in subsection (a)(1) and inserting in lieu thereof "thirty days."

SEC. 7. Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding the following new subsection (d):

"(d) Notwithstanding any other provision of law, a denial of an application for asylum and the procedures established to adjudicate asylum claims under this section shall be subject to judicial review only in a proceeding challenging the validity of an exclusion or deportation order as provided for in section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a). The denial of an application for asylum may be set aside, or the cause remanded for further proceedings, only upon a showing that such denial was arbitrary and capricious, or otherwise not in accordance with law."

SEC. 8. Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended as follows:

(a) Subsection (a) is amended to read:

"(a) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported, in accommodations of the same class in which he arrived, unless the Attorney General, in an individual case in his discretion, concludes that immediate deportation is not practicable or proper. Deportation shall be to the country in which the alien boarded the vessel or aircraft on which he arrived in the United States, unless the alien boarded such vessel or aircraft in foreign territory contiguous to the United States or in any island adjacent thereto or adjacent to the United States and the alien is not a native, citizen, or subject or national of, or does not have a residence in, such foreign contiguous territory or adjacent island, in which case the deportation shall instead be to the country in which is located the port at which the alien embarked for such foreign contiguous territory or adjacent island. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) if the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or, in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visas or other document or such examination and admission if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (3) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority."

(b) A new subsection (b) is added to read as follows:

"(b) If the government of the country designated in subsection (a) will not accept the alien into its territory, the alien's deportation shall be directed by the Attorney General, in his discretion and without necessarily giving any priority or preference because of their order as herein set forth, either to—

(1) the country of which the alien is a subject, citizen, or national;

(2) the country in which he was born;

(3) the country in which he has a residence; or

(4) any country which is willing to accept the alien into its territory, if deportation to any of the foregoing countries is impracticable, inadvisable or impossible."

(c) Subsection (b) is redesignated as subsection (c) is amended as follows:

"(c) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interest; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this Act or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country to which his deportation has been directed; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 233 of this Act; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 233 of this Act, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the district director of customs of the district in which the port of arrival is situated or in which any vessel or aircraft of the airline may be found, the sum of $1,000 for each violation in addition to any other penalty provided by law. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay such fine is being determined, nor any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the district director of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine and pending detention costs."

(d) Subsection (c) is redesignated as subsection (d) and is amended to read as follows:

"(d) An alien shall be deported on a vessel or an aircraft owned by the same person who owns the vessel or aircraft on which such alien arrived in the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expense of the alien's deportation shall be borne by the owner or owners of the vessel or aircraft on which the alien arrived. If the deportation is affected on a vessel or aircraft not owned by such owner or owners, the transportation expense of the alien's deportation may be paid from the appropriation for the enforcement of this Act and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft."

SEC. 9. Public Law 89–732 is repealed.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions of this Act.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., July 31, 1980.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for you consideration and appropriate reference a legislative proposal "to create a Cuban/Haitian Entrant status and for other purposes."

This proposal implements the Administration's decision, announced June 20, 1980, to provide special legislation to regularize the status of the 114,000 Cubans and more than 15,000 Haitians who have entered the United States through Southern Florida and to respond to the burdens they have placed on the Federal government, on State and local governments and on voluntary organizations.

This special, one time only, legislation is necessary to meet problems not contemplated by the Refugee Act of 1980. The refugee provisions of the Act do not provide for the sudden and massive arrival of persons to the United States who did not undergo overseas processing. The asylum provisions of the Act must be applied on a case-by-case basis, a process which would be slow, leaving many arrivals without a clear status and without eligibility for federally-funded assistance. Additionally, many of the Cubans and Haitians would not qualify under the strict standards for asylum.

The size of this special population and the difficulty of returning them to their homelands or resettling them in other countries, makes this legislative proposal crucial, so that their status and their eligibility for federally-funded assistance may be clarified.

The proposal creates a special Cuban/Haitian Entrant status, available to Cubans who arrived in the United States after April 20 and before June 20, 1980, and to Haitians who were involved in INS proceedings before June 20, 1980. It provides that the Attorney General may grant Entrants authorization to engage in employment. The Attorney General is also authorized to deny or terminate the Cuban/Haitian Entrant status of any alien who is excludable under the Immigration and Nationality Act, with certain exceptions. It terminates ongoing asylum proceedings for all aliens who are granted Cuban/Haitian Entrant status. The Administration will continue to seek a method to identify and extend Cuban/Haitian Entrant status to those other Haitian "boat people" who arrived in Florida prior to June 20, 1980, but who are not in Immigration and Naturalization Service proceedings.

The legislation provides adjustment of status for Cuban/Haitian Entrants after two years, under terms similar to those of the Refugee Act. These admissions would not count against the numerical limitations of the Immigration and Nationality Act.

It provides 75 per cent Federal reimbursement to States for a broad range of assistance and services to Cuban/Haitian Entrants for a period of one year. For unaccompanied children for whom the State has assumed legal responsibility, full Federal reimbursement is available until the child is 18.

In addition to these major proposals, the legislation contains certain provisions to facilitate the administration of refugee and asylum laws.

The passage of this legislation will make it possible for all of those involved in this problem to resolve it quickly and humanely. The Departments of State and Health and Human Services join me in urging immediate consideration and adoption of this proposal.

The Office of Management and Budget has advised that the enactment of this legislation is in accord with the program of the President.

Sincerely,

ALAN A. PARKER,
Assistant Attorney General.

CUBAN/HAITIAN ENTRANT LEGISLATION—SECTION-BY-SECTION ANALYSIS

Section 2 of the bill grants "Cuban/Haitian Entrant" status to Cubans who were paroled into the United States between April 20, 1980, and June 20, 1980, or who had applications for asylum pending with the Immigration and Naturalization Service on June 20, 1980, and to Haitians who were (1) subjects of exclusion or deportation proceedings on June 19, 1980, or (2) were paroled into the United States before June 20, 1980, or (3) who had applications for asylum pending on June 20, 1980. Cuban/Haitian Entrant Status would be granted 30 days after enactment of this Act. The Attorney General would be authorized to deny Cuban/Haitian Entrant status to, or terminate the status of, any alien who is excludable under § 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182), with certain exceptions. This section would also permit the Attorney General to authorize Cuban/Haitian Entrants to engage in employment in the United States.

Section 3 authorizes the Attorney General to adjust the status of a Cuban/Haitian Entrant to that of an alien lawfully admitted for permanent residence after the alien has maintained Entrant status for two years. The Cuban/Haitian Entrant may be denied adjustment if he is firmly resettled in another country or if he is inadmissible under certain provisions of § 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182). The Attorney General is authorized to waive grounds for exclusion (with the exception of the provisions regarding national security, association with the Nazi government or trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it otherwise would be in the public interest. These adjustments would not count against the numerical limitations of the Immigration and Nationality Act.

Section 4. Special Reimbursement Authority for Services and other Assistance to Cuban/Haitian Entrants for Fiscal Year 1981.

Subsection (a) requires that, in order to obtain reimbursement under this section, the State submit a plan to the Secretary of Health and Human Services. The plan is to describe the need for services and assistance, what the State intends to provide to Cuban/Haitian Entrants, and the State's responsibility for these activities.

Subsection (b) authorizes 75 per cent reimbursement (within the limits of available appropriations) for cash and medical services for Cuban/Haitian Entrants not eligible under the State's programs funded under the Social Securtiy Act, and for health and social services and other services to increase economic self-sufficiency.

Subsection (c) provides comparable participation in the costs of projects to provide special educational services to school children. The Secretary of Health and Human Services will enter into an agreement with the Secretary of Education to carry out the legislative mandate for education services to school-age children. The same types of administrative arrangements and transfer of funds will be used as the two departments are employing under the Refugee Act of 1980.

Subsection (d) deals with services for unaccompanied children. If the State has assumed legal responsibility for such a child, full Federal reimbursement will be available for services or assistance furnished to the child, continuing not just for one year (as is the general rule), but through the time the child is 18 or whatever higher age is specified in the State's plan for child welfare services. There is also express authority for the Secretary to assume responsibility for an unaccompanied child until placement has been arranged.

Subsection (e) limits reimbursement under this section (except as addressed in subsection (d)) to assistance or services for the twelve-month period beginning July 1, 1980, or, if later, the month in which the individual leaves the Federal processing center.

There is no reimbursement for in-kind contributions by the State.

Subsection (f) authorizes reimbursement for necessary administrative costs related to the provision of assistance or services, at the same rate as is available for the assistance or services. The Secretary is authorized to set recordkeeping and reporting requirements.

Subsection (g) provides that if an individual has been granted both asylum under the Immigration and Nationality Act. and Cuban/Haitian Entrant status, the State may not be reimbursed under title IV of the Immigration and Nationality Act for assistance and services provided to him after he has been granted Cuban/Haitian Entrant status.

Subsection (h) amends section 401 of the Refugee Act to close the period during which services to certain applicants for asylum (primarily Haitians) will draw Federal reimbursement. That section would be limited to services provided prior to July 1, 1980, since, thereafter, a Haitian who had previously applied for asylum would be eligible for services and assistance under this section.

Section 5 terminates asylum proceedings for all Entrants who have not been granted asylum under § 208 of the Immigration and Nationality Act (8 U.S.C. 1158) as of the date they are granted Cuban/Haitian Entrant status. An alien granted Cuban/Haitian Entrant status may not apply for asylum under § 208 of the Immigration and Nationality Act. Those aliens granted asylum prior to the enactment of this Act will retain their status and will also be granted Cuban/Haitian Entrant status if eligible under this Act. For purposes of adjustment of status and family reunification, such aliens will be treated as Cuban/Haitian Entrants.

Section 6 amends section 106(a)(1) of the Immigration and Nationality Act (18 U.S.C. 1105a(a)) to shorten the time period in which a deportation order may be appealed from six months to thirty days.

Section 7 will amend 208 of the Immigration and Nationality Act to limit judicial review of asylum proceedings. The denial of applications for asylum, as well as the procedures for the adjudication of asylum claims, will be reviewed only after a final exclusion or deportation order has been entered. This section is intended to expedite asylum processing by providing one opportunity for judicial review of challenges to asylum procedures, denials of asylum claims and denials of 243(h) claims.

Section 8 amends section 237(a) of the Act (8 U.S.C. 1227(a)) to eliminate the problems caused by the current law which specifies that an alien ordered excluded from the United States may be returned only to the "country whence he came." Decisional law has defined "the country whence he came" as the country where the alien last had a place of abode. When, however, that country does not recognize the alien's right to return, the United States Government has no discretion under the Immigration and Nationality Act to apply to a second country which may be willing to accept the alien as a deportee. In contrast, when an alien illegally in the United States is ordered arrested and deported following an expulsion hearing, § 243(a) of the Act (8 U.S.C. 1253(a)) provides that if the country first designated will not accept the alien, application may be made to other countries. This amendment would provide similar options with respect to aliens who have been ordered excluded and deported. It will also eliminate the confusing term "whence he came" and make it clear to which country deportation initially would be sought.

Section 9 repeals P.L. No. 89–732, which authorizes the Attorney General to adjust the status of a Cuban national admitted or paroled into the United States to that of an alien lawfully admitted for permanent residence after one year in the United States.

Section 10 authorizes such appropriations as may be necessary to carry out the provisions of this Act.

AMENDMENT No. 1962

Strike out all after the enacting clause and insert the following:

That (a) for the purposes of the administration of the Immigration and Nationality Act, the following aliens and their respective spouses and children as defined in the first sentence of section 207(c)(2) of that Act (8 U.S.C. 1157(c)(2)), shall be considered "refugees" within the meaning of section 101(a)(42) of that Act (8 U.S.C. 1101(a)(42)), and except as provided in subsection (b), any provision of that Act relating to refugees, including provisions relating to asylum, adjustment of status, and refugee resettlement and assistance, shall apply to such aliens:

(1) Any national of Cuba who was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) after April 20, 1980, and before June 20, 1980.

(2) Any national of Haiti who on June 19, 1980, was the subject of exclusion proceedings under section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), including any national who on that date was under an order of exclusion and deportation which had not yet been executed.

(3) Any national of Haiti who on June 19, 1980, was the subject of deportation proceedings under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), including any national who on that date was under an order of deportation which had not yet been executed.

(4) Any national of Haiti who was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) before June 20, 1980, and who was physically present in the United States on that date.

(5) Any national of Cuba or Haiti who on June 19, 1980, had an application for asylum pending with the Immigration and Naturalization Service.

(b) Notwithstanding any provision of the Immigration and Nationality Act, the numercial limitations specified in sections 201, 202, 203, 207, and any other section of that Act containing a numerical limitation relating to admissions shall not apply to the admission of an alien described in subsection (a).

SEC. 2. Public Law 89–732 (80 Stat. 1161) is repealed.

Mr. KENNEDY. Finally, Mr. President, for the RECORD, I would like to insert a copy of a letter I wrote to President Carter last May 20 outlining how and why the administration should have used the Refugee Act of 1980 to deal with the Cuban refugee problem. Had the administration followed this course of action, no new legislation would have been necessary for Cubans.

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

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

COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 20, 1980.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am writing pursuant to our previous correspondence on your decision to exercise the emergency provisions of The Refugee Act of 1980 (P.L. 96–212), to deal with the Cuban refugee problem as it had developed as of April 14th. Also, I want to reiterate my recommendations as to how government should proceed in dealing with the escalating problems among both Cuban and Haitian refugees.

First, I believe it is essential that we bring some order to the choas that has surrounded the flow of Cuban refugees to the United States. I believe it is imperative to negotiate a comprehensive agreement on orderly departure with the Cuban government and to press other nations to receive their fair share of refugees for final resettlement. As you probably know, we reviewed these issues in some detail with your representatives during Judiciary Committee hearings on May 12th but serious questions remain and hard decisions have been postponed. The immigration status of Cubans and Haitans who are already in the United States is unresolved. And the issue of federal support for State, local and voluntary agencies helping the refugees has been avoided.

Relative to Cubans, I have repeatedly urged your Administration to utilize, on a case-by-case basis, the emergency provisions of The Refugee Act of 1980. In statements on April 16th and 17th—during the first Judiciary Committee hearing and consultation under the terms of the new Act—I strongly supported your April 14th decision to use the emergency provisions (Section 207(b)) of the Refugee Act to respond to the plight of Cubans in the Peruvian Embassy in Havana.

Following your Executive Order, the Judiciary Committee immediately arranged for expeditious consultations to consider the proposed admission of 3,500 Cubans—as well as other refugees previously scheduled for admission to the United States for the remainder of fiscal year 1980. On April 25th, Senator Thurmond and I wrote to you on behalf of the Committee, supporting your proposals and agreeing that the admission of Cubans met the test of Section 207(b) of the Refugee Act, which states:

If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed 12 months) . . .

However, during this period of consultation on your original request for Cuban admissions, the situation in Havana changed. Instead of being able to process Cubans at the Peruvian Embassy in Havana, or in Costa Rica as originally planned, the Cuban government halted the airlift to Costa Rica and stimulated a massive sealift of Cubans to the United States.

It is my view that these developments did not create a new refugee situation under the terms of The Refugee Act; rather, they created a changed refugee situation. Cubans flowing out of Havana subsequent to April 14th are part of a single foreign refugee situation which you properly deemed "an unforeseen emergency refugee situation," for which their admission was "justified by grave humanitarian concerns" and "otherwise in the national interest." These changed circumstances should have been dealt with by simply amending your Executive Order of April 14th, and consulting again with the Judiciary Committees.

However, your representatives, particularly Ambassador Palmieri, United States Coordinator for Refugee Affairs, have refused to take this course. They have repeatedly asserted that Congress never intended that the provisions of the Refugee Act should accommodate large numbers of refugees arriving directly to our shores.

This is correct in terms of the asylum provisions of Section 208 of the Act. This section was added to adjust only 5,000 asylum cases each year, for persons already in the United States who are unable to return to their native countries because of a well-founded fear of persecution, as defined in the law.

But the current Cuban refugee flow was initiated under Section 207 of the Act. It was judged to be a foreign refugee situation, and although the modalities of the movement have shifted, and refugees are arriving directly on our shores, it remains a foreign refugee situation. (A similar situation would arise if Vietnamese "boat people" reached Guam or Hawaii—as was considered likely in 1978. Surely they could be treated as refugees under the Indochinese refugee program, as authorized under Section 207 of the Act. Indeed, contingency plans were developed in 1978 to accept Vietnamese refugees reaching our shores the same way we have urged Malaysia or Hong Kong to accept them—by providing safe-haven under the auspices of the United Nations High Commissioner for Refugees until third country resettlement opportunities can be arranged, either in the United States or elsewhere.)

In no case, however, does this mean the United States must take all who reach our shores, even if they are bona fide refugees under the United Nations Convention and Protocol Relating to the Status of Refugees. Rather, we are required only to provide safe-haven until such refugees are either admitted to the United States, under the terms and conditions we established pursuant to the provisions of the Refugee Act, or until the UNHCR can find third country resettlement opportunities or facilitate voluntary repatriation. I would agree that simply because a Vietnamese boat arrives in the United States—or a Cuban boat—we are not required to resettle such individuals, even though we may have already established a general refugee admission program for Vietnamese (or Cubans) under the terms of Section 207 of the Refugee Act.

What it does mean, however, is that if we choose to do so, we can use this legislation to respond effectively to such refugees and give full and prompt assistance to the communities which receive the refugees. The Congress passed the Refugee Act so as to avoid treating each new refugee situation on an ad hoc basis, requiring new authorities to deal wth it. It is precisely this flexibility which is missing in the current approach to handling the Cuban refugee problem. And it is this that prompted my deep concern at the May 12th hearing—my concern that if we fail to use the Refugee Act now, with the flexibility and scope for which it was intended, we will likely compromise its future use just as it has been signed into law.

I would hope that you will see both the wisdom and benefits of using the Refugee Act to handle those Cubans who are already here and who meet, on a case-by-case basis, the criteria and screening we establish to judge their eligibility for resettlement—just as we establish criteria and screening for other refugee programs authorized under Section 207 of the Act. By amending your Executive Order of April 14th and consulting again on a second, more realistic ceiling for the admission of Cuban refugees, you can utilize the tools made available by the Refugee Act.

Finally, with regard to Haitians already in the United States, I urge you again to direct the Attorney-General to use available authorities under the Immigration and Nationality Act of 1952, as amended, to dispense with all pending Haitian cases and to institute fair procedures to handle future Haitian cases under the terms of the Refugee Act. If we do not act now to use the parole authority to resolve the Haitian cases, we will allow this tragic legacy of past injustice and discrimination to continue into the future, poisoning our ability to treat all new arrivals fairly. We must also take diplomatic action, in concert with the U.N. High Commissioner for Refugees and other Hemispheric nations—to determine whether Haitians leaving their country are, as a class, fleeing a well-founded fear of persecution, or whether only individual cases should be processed under the asylum provisions of the new law. Only such a concerted and high-level effort can lay to rest the concerns of many Americans that the Haitian situation is not being taken seriously, and that Haitian refugees are not being treated fairly.

On both the Cuban and Haitian refugee situations, I urge you to direct your representatives to consult with the Judiciary Committees of the Congress and to develop reasonable alternatives to the current unacceptable situation. You have my strong support in any endeavor to treat refugees humanely and generously, consistent with our laws and our traditions.

Many thanks for your consideration, and best wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman.●

By Mr. HART:

S. 3014. A bill to provide for the subsistence electrical and natural gas needs of elderly residential consumers, promote equity in electrical costing and natural gas through reform of current electric and natural gas rate structures, and for other purposes; to the Committee on Energy and Natural Resources.

UTILITY LIFELINE FOR THE ELDERLY RATE REFORM ACT OF 1980

● Mr. HART. Mr. President, utilities are a necessity of modern life; a lifeline keeping American households from the harsh cold of winter and the heat of summer. But increasing energy costs and spiraling inflation have sent utility bills soaring.

This is bad enough for people whose earnings cover most essential needs. But for senior citizens on fixed, limited incomes, constantly increasing prices can be terrifying. In fact, spiraling energy costs may be the number one concern of our elderly citizens. This has recently been brought to light by the tragic deaths of elderly persons throughout the Southwestern and Midwestern regions of our country. Many seniors had air-conditioning or fans in their residences but did not use them for fear of high utility bills. This Mr. President, is a somber reality.

Clearly, we must provide affordable energy for these Americans whose health and safety are especially dependent on this commodity.

I am pleased to introduce today legislation which will ensure availability of a basic amount of electricity and natural gas at minimum cost to our senior citizens.

The bill would require State or local regulatory agencies to establish a subsistence quantity of electricity/natural gas for residences in which the head of the household is at least 65 years of age or receiving social security, Federal railroad retirement or other federally funded retirements benefits. The subsistence level of electricity would be the minimum amount necessary for cooking, food refrigeration, heating, lighting, cooling, medical, and other essential purposes. The rate charged for this amount of electricity/natural gas would be equivalent to the lowest rate charged to any consumer served by a given utility on the date of enactment of this bill. Amounts of electricity and natural gas in excess of the subsistence amount would be priced at the regular rate.

Mr. President, lifeline rates for the elderly represent a significant departure from most current rate schedules. In most States, utilities provide energy for industrial and other large consumers at a cheaper rate than for small residential users. The more energy used, the lower the unit cost becomes. The elderly, therefore, bound to use as little as possible, now pay the highest rates.

With the institution of lifeline rates, the householder aged 65 and over would get a subsistence amount of electricity and natural gas at the same rate as the largest industrial user—the lowest rate instead of the highest.

Mr. President, I view this bill establishing lifeline rates for senior citizens as an important, easily administered, but only interim, solution to a well-documented problem: the need for utility rate reform. The "declining block rate" structure, giving discounts to those who use the greatest amount of electricity or natural gas and charging the most to those who use the least, is regressive. It promotes wasteful consumption by industrial and other large users while residential users bear a disproportionately large burden for increases in utility prices. It serves neither the interests of equity nor the goals of a national energy policy, and it should be changed.

Consequently, this bill looks beyond this interim solution and requires the Department of Energy to study a comparatively new concept in pricing—incremental pricing. This concept, I believe, would do much to promote equity, efficiency, and conservation. Under this rate structure, all consumers would pay a price based on the incremental cost of supplying the energy source. Under incremental costing methodologies—such as peak load and longrun incremental pricing—the incremental cost may exceed the average cost of supplying utilities. Thus, the total revenues based on such a schedule would exceed total cost of operation.

To bring revenues and costs into balance, the Department of Energy would examine various alternatives for selling subsistence quantities of electricity to residences at a lower rate.

Under such a plan, it is possible that monthly utility bills could decline for small-quantity consumers and increase for many large-quantity consumers. Because low-income persons are usually small quantity users, this plan establishes a "progressive" rate structure.

Such a plan would provide significant incentives for conservation and economic efficiency in addition to potential relief for low-income and elderly consumers.

Mr. President, this bill enunciates two important goals which must be an integral part of any comprehensive national energy policy. First is the goal of providing all Americans, particularly the

low-income and elderly with adequate, affordable and equitably priced energy. Second is the importance of conservation and the prudent use of our limited energy resources. If current pricing policies remain in effect, they will perpetuate wasteful consumption while failing to provide for the essential needs of an increasing proportion of our population. Lifeline for the elderly is an important first step in converting ours from a consumptive to a quality and conservation-oriented society. Only in this way will we be able to provide for the energy needs of all Americans while protecting our limited energy resources from waste and misuse.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 3014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utility Lifeline for the Elderly Rate Reform Act of 1980".

FINDINGS

SEC. 2. The Congress finds that—

(1) more efficient resource conservation measures are necessary with regard to utility distribution systems in the United States;

(2) the Federal Government has long recognized that supplying low-cost electricity and natural gas to all Americans is a fundamental need which is equal in importance to the nutritional, health, education, and other essential needs of our citizenry;

(3) rates for electric energy and natural gas have increased dramatically in recent years, creating severe hardships for many elderly Americans on low fixed incomes who often must choose between this and other essential items;

(4) the vast majority of existing electric and natural gas rate schedules include quantity discount rates and declining block rates which result in large-scale consumers paying less than the full cost of the service they receive;

(5) the inequitable distribution costs in electric and natural gas rate schedules encourages increased and often wasteful consumption of electricity by large-scale consumers while many individual elderly residential consumers must struggle to pay for limited but essential quantities of electric power and natural gas; and

(6) therefore, existing electric and natural gas rate schedules serve neither the interests of equity nor the goals of a comprehensive national energy policy.

PURPOSES

SEC. 3. It is the purpose of this Act to—

(1) provide for the conservation of energy resources by reducing waste due to inverse effects of rate structures;

(2) provide an interim solution for the subsistence residential electrical and natural gas needs of the elderly while Congress attempts to construct an equitable electric and natural gas utility structure which adequately meets the needs of all classes of electrical and natural gas consumers;

(3) promote equity in electrical and natural gas costing; and

(4) demonstrate the effects of lifeline costing on electric and natural gas utility rate structures, consumption patterns and the operation of electric and natural gas utilities, and to demonstrate the feasibility and desirability of action by Congress to extend lifeline costing to other segments of American society.

LIFELINE RATES

SEC. 4. (a) No rate schedule of an electric or natural gas utility shall provide for a rate under which the charge per kilowatt-hour or cents per therm to an elderly residential consumer for a subsistence quantity of electric energy or natural gas in any month for such consumer's principal place of residence exceeds the lowest charge per kilowatt-hour or cents per therm to any other electric or natural gas consumer to whom energy is sold by such utility (or any electric utility which controls, is controlled by or under common control with, such utility). Such rate shall not exceed the average of residential rates in effect on the date of enactment of this Act. The relevant regulatory authority shall consider seasonal and climatic variations as they affect electric and natural gas consumption in determining the subsistence electric and natural gas needs of elderly residential consumers.

(b) For purposes of this Act, the term—

(1) "subsistence quantity" means the number of kilowatt-hours or therms of natural gas per month which the relevant regulatory authority determines is necessary to supply the minimum subsistence electric and natural gas needs of elderly residential electric and natural gas consumers at their principal place of residence for uses such as heating, lighting, cooking, cooling, food refrigeration, medical, or other essential purposes as determined by the relevant regulatory authority;

(2) "elderly residential electric or natural gas consumer" means an individual who demonstrates to the supplying electric or natural gas utility for such individual that such individual is—

(A) at least sixty-five years of age; and

(B) (i) the head of a household or principal income earner; or

(ii) is receiving benefits pursuant to title 2 or title 16 of the Social Security Act, the Railroad Retirement Act of 1974 or any other retirement system whereby retirement benefits are paid by the Federal Government; and

(3) "relevant regulatory authority" means the regulatory body which has ratemaking authority with respect to electric or natural gas rate schedules within its jurisdiction.

ENFORCEMENT

SEC. 5. (a) No electric or natural gas utility may sell electric energy or natural gas except in accordance with a rate schedule which has been fixed, approved, or permitted to go into effect by a regulatory authority having jurisdiction over such utility. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 4.

(b) If any person alleges that the action of a regulatory authority or failure to act, violates subsection (a)—

(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State court of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

(B) if there is no such statutory review proceeding applicable to such action or failure to act,

by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy or natural gas, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

(A) may be reviewed by any State court of competent jurisdiction, and

(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) Any individual found guilty of fraudulently misrepresenting his or her status as a residential electric consumer shall be punished by a fine not to exceed $5,000 or imprisonment for not more than six months or both.

FEDERAL ASSISTANCE

SEC. 6. The Secretary of the Department of Energy (hereinafter referred to as the "Secretary") or his successor in any department or agency established by law to carry out the functions of such Department shall provide technical assistance, including grants, or such other financial assistance as he determines necessary and appropriate to State and municipal regulatory authorities to assist in the establishment of subsistence standards for the elderly.

STUDY AND REPORTING REQUIREMENTS

SEC. 7. (a) The Secretary or his successor in any department or agency established by law to carry out the function of the Department of Energy, shall submit a report to Congress not later than 18 months after the date of enactment of this Act on the effects of this Act on electric and natural gas utility rate structures, electric and natural gas consumption, and the operation of electric and natural gas utilities.

(b) The Secretary shall study the extent to which cost-justified changes in rates will require incremental pricing (such as long-term incremental costing, peakload pricing, and so forth) whereby the incremental costs will exceed the average costs of electricity and natural gas. In cases where the incremental costs will exceed the average cost of electricity and natural gas, the Secretary shall study the extent to which subsistence levels of electric and natural gas consumption may be priced at lower levels, so that total revenues and costs are brought into balance.

(c) The Secretary shall study—

(1) the extent to which a pricing schedule described in subsection (b) would alleviate the difficulties which low-income residences have in paying electricity and natural gas bills; and

(2) the impacts of a pricing schedule on the conservation efforts of all classes of consumers.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. MATHIAS (for himself and Mr. BAUCUS):

S. 3015. A bill to establish within the National Aeronautics and Space Administration a comprehensive program of automotive research and technology development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL AUTOMOTIVE RESEARCH ACT OF 1980

● Mr. MATHIAS. Mr. President, I am pleased to introduce, along with Senator BAUCUS, S. 3015, the National Automotive Research Act of 1980. This bill is a companion to H.R. 4678, which has been sponsored in the House by Representative TOM HARKIN.

This bill addresses one of the most important and severe problems facing our country today. The United States currently imports about half the oil it uses.

The great majority of that foreign oil comes from the OPEC nations, which, as we all know, have raised their prices from $1.80 to $32 a barrel in just 10 years. This unprecedented jump in oil prices is a major cause of the high inflation and high unemployment that we are experiencing. Time and time again we have been told that the quickest and most effective way to end our reliance on unstable foreign sources of oil is by conserving the supplies that we have.

Any realistic conservation plan must be based on two inescapable facts. First, the United States imports 50 percent of the oil it uses. Second, 90 percent of that imported oil is consumed by the transportation sector of our economy. These facts make it clear that oil conservation efforts in our country must begin with the most popular means of transportation, the automobile.

Despite this obvious conclusion, the Federal Government has not yet taken the necessary steps to encourage the dramatic breakthroughs in automotive fuel efficiency that we desperately need to spur an effective national conservation program. On their own, private automakers have been unable to fill this gap. Understandably, they are currently spending 95 percent of their research and development funds to meet the federally mandated 1985 mileage guidelines.

The National Automotive Research Act of 1980 would launch this needed conservation effort by establishing a major cooperative program through which the three distinct areas of automotive fuel expertise—in the Government, in the universities, and in the auto industry—could work together to create a much more fuel efficient car for the 1980's than will otherwise be possible.

This cooperative program has two major aspects:

It gives the National Aeronautics and Space Administration (NASA) the responsibility for basic research and technology development on automotive fuel efficiency with the results to be available for voluntary use by the auto companies; and

It assigns to NASA the lead agency responsibility for coordinating all Federal automotive research and development activities.

NASA is the logical Federal agency to handle automotive research and development. It has a proven track record of successfully managing high technology research and development programs. Even the Department of Energy has recognized NASA's expertise in this area—and at present subcontracts 60 percent of its automotive fuel research to NASA.

An even more important point in favor of this proposal is NASA's ability to work in close cooperation with American industry. As Lee Iacocca, the chairman of Chrysler Corp., recently said, "we gotta cooperate" to solve our energy problems and the related financial problems of the U.S. auto industry.

The auto companies are reluctant to work with the Federal agencies currently involved in automotive research. Those agencies, including the Department of Energy, the Department of Transportation, and the National Highway Traffic Safety Administration, are primarily regulatory bodies, and the industry is apprehensive about the regulations which might result from their research.

For the Federal automotive research and development program to be a success, we must assign it to an agency with both the technical competence to work as an equal with the auto companies and with the ability to work cooperatively with private industry unencumbered by a history of discord. Based on the record, the one agency which fits this description is NASA.

The relationship between NASA and the auto industry is free of the conflicts which characterize most Government agency-auto industry relationships. NASA has not had any regulatory responsibilities in the past and this bill would not change that. Auto fuel research which supports rulemaking activities would remain with the regulatory agencies. Thus, NASA would be free to work closely with the auto companies in a cooperative, voluntary effort to improve our present automotive fuel technology.

I can assure my colleagues that the assignment of the responsibility for automotive fuel research to NASA will not interfere with the successful completion of NASA's primary mission, the Space Shuttle. The money for the automotive research and development program will not come out of NASA's budget nor will the project be assigned to the same scientists who are working on the Shuttle.

My bill would make money available partly through a transfer of funds from the agencies that have been working on automotive fuel research whose efforts would be taken over by NASA and partly from the windfall profit tax fund or general tax revenues. Some of the staff assigned to this project would also come from the agencies which have been working on fuel research, but the majority would be NASA scientists who are not working on the Shuttle. Many NASA scientists, including experts who specialize in the basic research needed in the energy field, have completed their work on the Space Shuttle and have the necessary time and talents to devote to the automotive fuel research program.

Many of the Federal Government's energy research efforts have been characterized by confusion and conflict with the private industries involved. The passage of S. 3015 would be a big step toward eliminating these problems in the area of automotive fuel research.

Last summer when the American people were sitting in lines at gas stations all across the country and President Carter was in retreat at Camp David trying to decide what to do about it, West German Chancellor Helmut Schmidt, speaking in the Bundestag, appealed to Germany's auto industry to introduce cars with lower fuel consumption. The automakers could accomplish the job in less than 18 months, he said, and would "take a leading international position in the area."

That is the kind of talk that makes sense in an industrial society. The shift to energy-efficient cars is absolutely inevitable. What is not inevitable, and what we should avoid at all cost, is the shift to energy-efficient foreign cars, because that means American jobs. But, if we do not help Detroit come up with viable alternatives, that shift too will be inevitable.

Here is another sure thing: The automaker who comes up first with a car that gets 50 to 75 miles a gallon will corner the world market.

I want that automaker to be American. That is why I want to get NASA into the act.

Once the decision was made to send a man to the Moon, it only took 8 years to accomplish that "giant step for mankind."

Once we make up our minds to kick energy dependence, the future will be ours to command. Passage of this bill will take us a long way toward that goal.

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. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Automotive Research Act of 1980".

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to establish, within the National Aeronautics and Space Administration, the lead agency responsibility for a comprehensive program to advance the state of automotive technology. Such program shall involve the capabilities of other Government laboratories, private industry, and institutions of higher learning.

AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 3. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking out "subsections (a), (b), (c), (d), (e), and (f)" in subsection (g) and inserting in lieu thereof "this section";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

"(g) The Congress declares that the general welfare of the United States requires that the unique competence of the National Aeronautics and Space Administration be directed to automotive research and technology development activities. Such activities shall be conducted so as to contribute to the objectives of increased fuel efficiency, safety, and reliability; decreased dependence on foreign petroleum; reductions in adverse environmental effects; conservation of scarce resources; enhanced personal mobility, at reasonable cost; and improvements in the international competitive position of American automotive products.".

(b) Section 103 of such Act (42 U.S.C. 2452) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'automotive research and technology development' means efforts to expand fundamental knowledge related to motor vehicles, devise new component and system concepts, and develop experimental components, subsystems, and vehicles when necessary to verify such concepts.".

(c) Section 203 (b) of such Act (42 U.S.C. 2473) is amended by adding at the end thereof the following new paragraph:

"(3) The Administration shall plan, direct, and conduct automotive research and technology development activities using, to the maximum extent possible consistent with good management practice and the responsibility to achieve program objectives, the capabilities of other Government laboratories, private industry, and institutions of higher learning.".

TRANSFER OF FUNCTIONS

SEC. 4. There shall be transferred to and vested in the National Aeronautics and Space Administration, within two years after the date of the enactment of this Act, in accordance with regulations prescribed by the Director of the Office of Management and Budget, all automotive research and technology development activities currently being conducted by other Federal departments and agencies, along with so much of the positions, personnel, property, and funds of such other Federal departments and agencies as the Administrator of the National Aeronautics and Space Administration in consultation with the heads of such other Federal departments and agencies, shall recommend to the Director of the Office of Management and Budget, except such research and development activities as are authorized to be carried out by any other Federal officer which are necessary for the support of the rulemaking responsibility of such officer.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 5. (a) The Administrator is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research and technology development activities. Such plan shall include a report of progress and further plans for carrying out the provisions of section 4 of this Act.

(b) The Administrator shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within one hundred and twenty days after the date of enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Administrator shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include (but need not be limited to) a statement setting forth any changes in—

(1) the anticipated research and technology development objectives to be achieved by the program including detailed milestone goals to be achieved during the next fiscal year;

(2) the management structure, arrangements for interagency, industry, and university coordination and cooperation, and plans for participation of outside advisory groups; and

(3) the content, total estimated cost, and schedule of individual program items.

MISCELLANEOUS PROVISIONS

SEC. 6. (a) Sections 206(a), 305(c), and 306(a) of the National Aeronautics and Space Act of 1958 are each amended by inserting "or automotive activities" after "space activities"; and section 203(c)(3) of such Act is amended by inserting "automotive vehicles," after "space vehicles,".

(b) Paragraph 15 of section 5316 of title 5, United States Code, is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(c) There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration, to carry out the amendments made by this Act, the sum of $25,000,000 for the fiscal year 1981, the sum of $100,000,000 for the fiscal year 1982, the sum of $300,000,000 for the fiscal year 1983, and such sums as may hereafter be provided for in annual authorization Acts for the fiscal year 1984 and subsequent fiscal years.●

By Mr. MATHIAS:

S. 3016. A bill to improve efficiency, effectiveness, and productivity at all levels of Government through fuller use of Federal research and development resources of Federal laboratories, to provide for the establishment of Offices of Research and Technology Applications in Federal laboratories, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENTAL EFFICIENCY IN RESEARCH AND DEVELOPMENT ACT OF 1980

● Mr. MATHIAS. Mr. President, today I have the pleasure of introducing a bill to improve efficiency, effectiveness, and productivity at all levels of Government by making fuller use of the R. & D. resources that already exist in Federal laboratories. The "Governmental Efficiency in Research and Development Act" is the result of a carefully developed, thoughtful effort which has involved both Houses of Congress as well as the executive branch.

The goal sought in this bill has long been a subject of concern to scientists, State and local officials as well as the Federal Government. It was highlighted in former President Nixon's 1972 address to Congress on science and technology; in President Carter's 1977 memorandum on intergovernmental cooperation and his 1979 science and technology message; and most recently in the March 1980 memorandum on State and local needs in Federal R. & D., cosigned by Director of the Office of Management and Budget James McIntyre, Jr.; the President's science advisor, Dr. Frank Press, and by the then special assistant to the President on intergovernmental affairs, Jack Watson.

Interest in this subject, however, has not been restricted to the executive branch. Congress too has demonstrated an acute concern for this issue and has manifested its interest in a number of ways. Last year, for example, Congressman CHRISTOPHER DODD sponsored a major Technology Transfer Conference in Hartford, Conn., for State and local officials from New England, and this March, I cosponsored "the Technology Exchange," a conference and exposition held in Baltimore, Md., for officials from the entire Mid-Atlantic region.

The purpose of both events was to raise awareness at all levels of Government of the numerous Federal scientific and engineering resources that are the fruit of our R. & D. investments and that can help State and local officials solve many of their problems. In addition, a number of hearings have been held on this subject. The most comprehensive being those held in the 1st session of the 96th Congress by the House Science and Technology Subcommittee on Science, Research and Technology.

I am pleased to report that under the able leadership of Representatives WATKINS and BROWN companion legislation to this bill is being introduced in the House. We have worked closely together on this legislation and have planned to hold joint hearings in the near future. In addition, the Office of Technology Assessment of the Congress is about to release its final report on a study of how to make better use of the national laboratories. This study supports the major provisions of the present bill.

State and local officials and professional and scientific organizations all across this country share the enthusiasm of the Federal Government for broadening the application of Federal R. & D. Such a broad consensus is rarely found these days and speaks far more eloquently than I can for the importance, the timeliness and the need for this bill. Victor Hugo pointed out long ago that, "no army in the world can withstand the strength of an idea whose time has come." Although no armies are arrayed in our path, we do have the formidable problem of bureaucratic inertia to combat.

Mr. President, the State, counties, cities and towns of this Nation are facing a rising tide of complex problems: Escalating inflation and a recession, coupled with decreasing revenues and unemployment. These problems make it ever more difficult for elected and appointed officials to provide the vital services and perform the functions which taxpayers expect and deserve. It is important that we keep in mind the fact that State and local governments, far more than the Federal Government, represent the most direct, visible and tangible way in which Americans judge the quality of life, measure the performance of government, and see the fruits of their tax investment.

Americans judge the effectiveness of Government by what they see every day with their own eyes. They evaluate how well their tax dollars are spent in terms of the roads they drive on, the schools their children attend, how their trash is collected, how safe their streets are, and whether or not the water they drink is clean and pure.

All the services that define the quality of an American taxpayer's daily life are provided by State and local governments.

One of the most pressing questions that faces us today is this: What can we do to meet the critical needs of our State and local governments without breaking the backs of the American taxpayers? I believe this legislation supplies at least a partial answer to that question because it will promote better use of our scientific and engineering talents across the board.

Our Nation has achieved greatness in large measure because of our scientific and technological genius. We do not have to look far to see how scientific breakthroughs have profoundly changed our society and our world. The steam engine revolutionized transportation in its day; the airplane has revolutionized transportation in ours, reducing intercontinental travel to a matter of hours. Electronics, computers, satellites, and television have reduced the world to a neighborhood. These discoveries, and others in medicine, in space exploration, and in the social sciences have helped make our country great and have changed our perceptions of ourselves and of our universe.

Our scientific and technological genius is perhaps our greatest national resource. In this area at least, we still hold a lead over the rest of the world. To nurture and maintain the vitality of this precious resource we spend upward of $30 billion each year on federally funded research and development in all areas of science and technology. This is a huge investment by any standard and it has bought us, in addition to sophisticated equipment, complex system and far-sighted plans, a tremendous storehouse of knowledge—a virtual warehouse of scientific and engineering expertise of which we are justly proud.

Unfortunately, however, not enough people have access to this warehouse; we simply are not using it to solve some of the toughest problems facing this country—the operating problems of State and local governments. Many of these problems are technological. I am thinking here, for example, of the major engineering problems with our urban infrastructure, water and sewer systems, subways, bridges, streets, as well as public buildings, in many cities are approaching or have already exceeded their expected useful life. With today's inflation the cost to replace or repair these major capital investments is staggering.

I am also thinking of the urgent necessity we all face to conserve energy, and of the increased efficiency and productivity that could result from better use of computers and modern information processing and communications systems.

These problems could be and should be addressed by our best scientists and engineers. They directly affect the daily lives of all Americans—the citizens who paid to develop our tremendous storehouse of technical expertise. Yet today a shockingly small percentage of the $30 billion spent for Federal R. & D. is directed toward State and local government problems. It is hard to get a firm figure for this, but one estimate I have seen is $200 million—less than 1 percent of our Federal R. & D. expenditures to address problems that account for 14 percent of our GNP. This imbalance seems to me to be striking evidence that our priorities are askew. The American taxpayers deserve a better return on their investment than this, and I believe they can get it if we learn to use our existing resources better. This bill is an important step toward that goal.

Mr. President, this legislation will require that every Federal laboratory devote a portion of its efforts and its resources to State and local problems, and the larger labs—those with annual budgets exceeding $20 million—to employ at least one full-time professional for this purpose. To fund and coordinate this effort, each Federal agency having one or more R. & D. laboratories will be required to reserve one-half of 1 percent of its annual budget. Although this is a very small percentage of the whole, this amount of research and assistance on State and local problems will result in very significant benefits without impairing the primary mission capabilities of these laboratories.

We already have in place a large network known as the Federal Laboratory Consortium for Technology Transfer which has more than 200 member labs, with an organization and contacts all across this country. This bill will strengthen and build upon this nationwide network to provide a delivery mechanism that has credibility with both the scientific community and the users in State and local government. This bill will provide a legislative basis for the Consortium, the Federal Laboratory Program Management Office at NSF, and the Center for the Utilization of Federal Technology at Commerce. Provisions are also made for insuring a strong agency involvement in this effort and establishing an annual reporting requirement.

The present bill and its companion in the House will go a long way toward improving effectiveness and productivity in State and local government, and will insure fuller utilization of one of our Nation's most precious resources—our scientific and engineering genius.

Recently, Mr. President, the Stevenson Technology Innovation Act (S. 1250) passed the Senate and was referred to Representative BROWN's Subcommittee on Science, Research, and Technology. This bill is designed to "promote U.S. technological innovation for the achievement of national economic, environmental and social goals and for other purposes." It focuses primarily on commerce, the private sector and universities.

Recognizing the similarity in purpose between this and the present bill—which my office and his have been developing together—Representative BROWN saw an opportunity for the Congress to take a broader stance on an issue of pressing national importance by combining the major provisions of each bill. This represents a natural and logical marriage of two bills each addressing different aspects of the same problem—"How to best use the limited R. & D. resources of this country."

I fully endorse the Stevenson Technology Innovation Act as amended by the House and encourage my colleagues to join with me in supporting this measure. Nonetheless, I am introducing my own bill as planned in order to give notice that if S. 1250 as amended is not enacted, I will work to achieve passage of my own bill.

Mr. President, I am committed, as I am sure all my colleagues are, to finding better more cost-effective ways to run our Government at all levels. This bill, and the amended Stevenson bill represent an important step in that direction. They will not solve all the problems of State and local government, but they will provide elected and appointed officials access to a valuable resource that can vastly improve their prospects for solving the serious problems that confront them. Most importantly, this legislation will not cost the taxpayer a single additional penny, and it will insure that every penny now being spent on Federal R. & D. will be spent to maximum advantage.

In short, it just plain makes good sense.●

By Mr. ARMSTRONG (for himself, Mr. WALLOP, Mr. DECONCINI, Mr. GOLDWATER, Mr. SCHMITT, Mr. HATCH, Mr. GARN, Mr. CANNON, Mr. SIMPSON, Mr. HART, and Mr. HAYAKAWA):

S. 3017. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Energy and Natural Resources.

WATER RESOURCE DEVELOPMENTS

● Mr. ARMSTRONG. Mr. President, Western States have long recognized the importance of preserving our scarce natural resources. Of these resources, water is the lifeblood of our existence. Throughout our history, we have worked to develop and conserve our scarce water supplies. As the Nation turns to the Western States for increased energy production, it is vital that we continue the development of our scarce resource—water. The future development of Western States and the Nation depends upon our willingness to continue to search for ways to increase and conserve the water supplies in the Colorado River Basin.

The legislation my colleagues and I are introducing today will insure that we continue to examine ways in which our water supplies can be developed so as to insure future development and protection of the water in the Colorado River Basin. This measure allows the Water and Power Resources Service (WPRS) to conduct feasibility studies for several salinity control projects in Colorado, Arizona, Nevada, Utah, and Wyoming. The completion of these studies will help the seven Colorado River Basin States in meeting their commitments to reduce the salt concentration in the Colorado River Basin.

The proposed feasibility studies will enable the WPRS to evaluate the effectiveness of the proposed salinity projects. By examining the salinity concentration of irrigation flows and the seepage rates of irrigation canals and laterals, a project can be designed and evaluated that would reduce the salt loading from the irrigated areas. These proposed studies will also examine a combination of irrigation improvements, vegetation management, and watershed management for most cost-effective projects.

Salinity concentration is a major concern for the future development of the Colorado River Basin. Numeric salinity standards have been established for the Colorado River lower main stem. If the

standards are to be maintained and the damages to water users minimized, as much as 2.8 million tons of salt will have to be removed from the system each year. In order to continue the development of the Colorado River basin, it is imperative that we continue to examine projects which could significantly reduce the salt concentration of the Colorado River basin.

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

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

S. 3017

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 to engage in feasibility studies of the following salinity control proposals:

1. Lower Gunnison Basin Unit, located in Delta, Montrose, and Ouray Counties, Colorado.
2. Glenwood-Dotsero Springs Unit, located in Garfield and Eagle Counties, Colorado.
3. Meeker Dome Unit, located in Rio Blanco County, Colorado.
4. McElmo Creek Unit, located in Montezuma County, Colorado.
5. Uinta Basin Unit, located in Duchesne and Uintah Counties, Utah.
6. Dirty Devil River Unit, located in Sanpete, Sevier, Emery, and Wayne Counties, Utah.
7. Price-San Rafael Rivers Unit, located in Carbon, Emery and Sanpete Counties, Utah.
8. LaVerkin Springs Unit, located in Washington County, Utah.
9. Lower Virgin River Unit, located in Clark County, Nevada, and Mohave County, Arizona.
10. Big Sandy River Unit, located in Sweetwater County, Wyoming.●

By Mr. HART:

S. 3018. A bill to amend the Congressional Budget Act of 1974 to require the President to report to the Congress whenever an executive agency plans to expend more than 20 percent of its budget within a 2-month period; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, pursuant to order of August 4, 1977.

CONTROLLING EXCESSIVE FEDERAL SPENDING AT YEAR'S END

● Mr. HART. Mr. President, today I am introducing legislation which will stop the practice of excessive spending by Federal agencies at the end of each fiscal year. As a result of congressional hearings and media attention, it is now known that some Federal agencies spend money on unneeded services late in the year to fully use their budget.

This wasteful spending practice must be restrained. In the last 2 months of fiscal year 1979 at least seven major agencies spent more than 20 percent of their budgets. For example, the Department of Housing and Urban Development spent 47 percent, the Environmental Protection Agency spent 41 percent, and the Department of Commerce spent 30 percent.

Certainly, the high rate of spending, in the last 2 months by itself does not indicate mismanagement of Federal funds. Some agencies have a normal business management cycle of seeking contracts early in the year, making decisions in the middle of the year, and then awarding contracts at year's end. If such practices are sound, we would not want to discourage them.

My amendment would create incentives for agencies not to spend more than 20 percent of their budget in any 2-month period. It amends the Congressional Budget Act to require the President to report to the Congress 1 month in advance, if any agency in the administration would spend more than 20 percent of its budget in a 2-month period.

By requiring the President to inform the Congress of such spending, we will put a great deal of pressure on the administrative agencies to reduce end-of-the-year spending. The mere fact that an agency would have to report to the White House, and the White House in turn to the Congress, in itself constitutes strong pressure against unwise spending practices.

However, if an agency has a normal practice that would have high rates of spending in a 2-month period, the administration can so inform the Congress, and explain to the people of this country why this spending practice is sound. If it is, then, of course, the President and the administrators of the respective agency have nothing to fear. However, if late-year spending is not sound fiscal management, this new procedure will give Congress enough information to end excessive spending by Federal agencies.

Some colleagues may be interested in a more extreme form of legislation which actually prohibits agencies from spending more than 20 percent of their budget in the last 2 months of the fiscal year. I believe that such a proposal could backfire and induce more inefficiency in Government.

A 20-percent limit on all agencies without exception could create chaos in those that have legitimate reasons for spending at year's end. In contrast, my amendment, which would simply require the President to inform the Congress of a high rate of spending, would leave it up to the agency to justify its position.

Also, simply limiting the 20-percent rule to the last 2 months of the fiscal year could cause wasteful spending earlier in the year.

My amendment can be accommodated easily under existing practices at the Office of Management and Budget. At present, all agencies are required to submit spending plans to OMB and monthly reports displaying the obligations they make each month. Thus, the new procedure for the President to inform the Congress can be done with existing administrative management practices.

In summary, Mr. President, my proposed amendment to the Congressional Budget and Impoundment Control Act of 1974 will control wasteful year-end spending by Federal agencies by exposing such spending in advance to the public view. If spending in excess of the 20-percent rule is justified by sound management procedures, such spending may continue. However, if such spending cannot be well justified, then this amendment will put pressure against its continuance.

Mr. President, in this era of extreme fiscal stringency, the Congress must make every effort to see that Federal agencies trim their spending as much as possible, and spend their appropriations only on high-priority items. Agencies should not be allowed to spend their appropriations to increase their bargaining power for more money in the next year.●

By Mr. DANFORTH (for himself, Mr. DOLE, Mr. TALMADGE, and Mr. BAUCUS):

S. 3019. A bill to provide for demonstration projects whereby medicare patients receiving chemotherapy or radiation therapy may be housed and boarded in settings other than inpatient hospital facilities; to the Committee on Finance.

● Mr. DANFORTH. Mr. President, the bill which Senator DOLE, Senator TALMADGE, Senator BAUCUS, and I are introducing today directs the Secretary of Health and Human Services to test an idea which may make it possible to reduce costs and improve care under the medicare program.

Health insurance is a primary factor in rising hospital costs. In addition to encouraging overuse, health insurance can skew the kind of treatment a patient receives.

Medicare is as culpable as any private insurance carrier in this regard. For example, medicare reimburses 100 percent of laboratory tests and X-rays performed when a medicare beneficiary is a hospital patient. When that same individual needs identical tests, but is not ill enough to require overnight hospital care, he or she must pay 20 percent of the cost. It is only natural for a doctor to be influenced by the cost to the patient when deciding whether the patient should be treated on an inpatient or outpatient basis.

Similarily, medicare reimburses 100 percent of the institutional cost when a surgical procedure is performed in a hospital. However, medicare pays for none of the institutional costs for surgical procedures that can be performed safely in an ambulatory surgicenter or a physician's office. Again, it is natural for a doctor to be influenced by this discrepancy in deciding where to perform an operation.

Some time ago, two of my constituents who are with the Mid-Missouri Professional Standards Review Organization Foundation alerted me to another anomaly in the medicare program. The Mid-Missouri PSRO serves a rural area. Most of the hospitals in the area do not have the facilities to provide radiation therapy and chemotherapy. As a result, many individuals who need that treatment must travel long distances to obtain it; often, treatment must be administered 2 or 3 days a week.

My constituents discovered that doctors would often admit patients to the hospitals where treatment was to be received even in cases where hospitalization was not absolutely required. Their

reasons for recommending hospitalization are understandable: Some doctors were concerned that their patients would not travel long distances as frequently as treatment needs required. They were also concerned that constant traveling would be detrimental to older patients' health. In their medical judgment, therefore, it was advisable to admit these patients to an acute care hospital, given the fact that there were no alternatives between acute care treatment and total outpatient care.

The Mid-Missouri PSRO staff believe a better alternative exists. They believe that everyone would be better off if physicians had the option to house patients in facilities other than acute care during the time that they are receiving chemotherapy or radiation therapy. The patients would benefit from being in a pleasant setting where they are not exposed to infectious diseases. The medicare program would be enhanced because quality care could be provided more inexpensively.

The purpose of the legislation we are introducing today is to determine whether the Mid-Missouri PSRO model works, and whether it might serve as a model for the entire Nation. The legislation mandates that the Secretary of HHS carry out at least three demonstrations to make this determination.

The demonstrations should reveal whether and in what circumstances doctors make use of a low-cost housing alternative. The demonstrations should also reveal what safeguards are necessary to insure quality of care and avoid abuses. If the demonstrations show that alternative housing can result in improved quality and substantial savings, I hope that the proposal can eventually be converted into a new benefit for all medicare beneficiaries.●

ALTERNATIVE HOUSING FOR AMBULATORY PATIENTS

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join with his distinguished colleagues, Senators DANFORTH, TALMADGE, and BAUCUS, in introduring this legislation designed to provide an opportunity for utilization of less costly and more appropriate housing for certain individuals receiving radiation therapy and chemotherapy.

INSTITUTIONAL BIAS

As this Senator has noted in the past, the medicare and medicaid programs, while providing necessary and appropriate services are frequently found to favor institutionalization or the use of institutionally based services. For example: Currently, medicare can reimburse the physician for professional services in any setting. Also, the institutional costs of ambulatory surgery in a hospital outpatient department can be reimbursed.

However, a charge for the use of special surgical facilities in a physician's private office or a free standing surgical facility that is not hospital affiliated is not reimbursable. A second example is the circumstances surrounding reimbursement that make it less costly to the medicare patient to receive diagnostic tests while in the hospital rather than prior to being admitted.

CURRENT LEGISLATION

Both of these specific problems have been addressed in legislation already agreed to by the Finance Committee. However, there is an additional area the Senator from Kansas believes needs attention: It is housing for patients who must travel great distances to receive radiation therapy and chemotherapy.

AMBULATORY PATIENTS

These individuals we are interested in assisting who travel to obtain needed care are required, in some instances unnecessarily, to stay in acute care hospitals because we will not reimburse for other housing arrangements.

These individuals may require some supervision and continuing evaluation during the duration of their therapy, but this might also be made available in a nonacute setting such as a skilled nursing facility, an intermediate care facility, a custodial care home, or even a hotel under certain circumstances. These alternative housing arrangements could prove to be less costly for the Government, in addition to being both less costly and more humane for those receiving treatments.

NATIONWIDE PROBLEM

The housing problems being experienced by medicare beneficiaries receiving radiation therapy and chemotherapy was brought to the attention of this Senator by a long-time friend and distinguished Kansas physician, Dr. Jack Travis. With the assistance of Dr. Travis, we prepared a questionnaire to determine the extent of the problem and distributed it nationwide. The response was tremendous and the comments universally confirmed that housing in alternative settings would benefit people in many States in addition to Kansas.

The Senator from Kansas also wishes to acknowledge the fine efforts of the Mid-Missouri Professional Standards Review Organization. They have also done a great deal of work in their own State, designing a demonstration project that they believed would provide them an opportunity to test out some forms of alternative housing arrangements.

It is our intention that a number of demonstrations take place, providing us an opportunity to truly evaluate the appropriateness and cost of providing reimbursement for alternative housing arrangements. Obviously we must also be assured of the safety of these arrangements for our beneficiaries.

CONCLUSION

The Senator from Kansas believes very strongly in the need for such demonstrations to take place, and looks forward to evaluating their results and then seeking permanent changes in the law where necessary.

I will also look forward to working with my distinguished colleagues, Senators DANFORTH, TALMADGE, and BAUCUS on this important issue.●

By Mr. RIBICOFF (for himself and Mr. ROTH) (by request):

S. 3020. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes; to the Committee on Finance.

CUSTOMS VALUATION PROTOCOL

● Mr. RIBICOFF. Mr. President, today, Senator ROTH and I introduced by request this legislation which is necessary for the United States to implement the recently concluded protocol to the customs valuation agreement negotiated in the multilateral trade negotiations in Geneva. This legislation is introduced under the special procedures for approval of trade agreements under the Trade Act of 1974. It is unamendable, is subject to time limits within which it must be reported by the relevant committees of the House of Representatives and the Senate and voted on by the House and Senate, and is subject to limited debate in the House and Senate.

The customs valuation agreement negotiated in the MTN provides for agreed international rules regarding the valuation of imports for purposes of imposing ad valorem customs duties; that is, duties applied on the basis of the value of the imports. The original agreement was implemented by title II of the Trade Agreements Act of 1979, which became effective on July 1, 1980.

Pursuant to section 102 of the Trade Act of 1974, and in order to encourage less developed countries (LDC's) to accept the customs valuation agreement negotiated in the MTN, the President has negotiated a protocol to the customs valuation agreement. The protocol and proposed implementing bill were submitted to the Senate on August 1, 1980. Since many of the developing countries employ customs valuation systems which have highly arbitrary and protective features that can act as nontariff barriers to international commerce, it was considered important to encourage developing country participation in the agreement. The protocol meets the concerns of the developing countries with some provisions of the valuation agreement while maintaining the integrity of the agreement.

The protocol consists of an amendment to the customs valuation agreement and some common understandings and possible reservations to the agreement by developing countries. At last report, four major LDC's (Argentina, Brazil, India, and the Republic of Korea) had given the U.S. Trade Representative what is called a clear indication that they would sign the agreement if the protocol is adopted, while other LDC's including, but not necessarily limited to Singapore and the Philippines had expressed an interest in signing at a later time.

The amendment to the agreement made by the protocol would eliminate one of four enumerated test values that customs officers may examine under the agreement to see if the transaction value reported for customs purposes in a transaction between related parties (for example, subsidiaries of the same parent corporation) should be accepted as the customs value for purposes of applying duties. The test value to be eliminated is one based on sales by a different seller to unrelated parties of the same product

imported from a different country. LDC's objected to this provision on the ground that they thought it could be used to reduce duties on imports from developed countries into developing countries.

Common understandings contained in the protocol essentially restate certain provisions of the customs valuations agreement. There is acknowledgement that certain developing countries have expressed concern that there may be problems in the application of transaction value insofar as it relates to importations into their countries by sole agents, sole distributors, and sole concessionaires; LDC's have treated these as related party transactions in the past, and are concerned about reduced customs revenues if the agreement applies, since they would not be considered related party transactions under it. Therefore, it is agreed that if such problems arise in practice, a study of this question would be made. Parties to the protocol also agree that customs administrators may need to make inquiries concerning the truth or accuracy of any statement, document, or declaration presented to them for customs valuation purposes, and that they have a right to expect the full cooperation of importers in these inquiries. This is designed to allay LDC fears that they could be forced to accept fraudulent information. The final common understanding is that the price actually paid or payable under transaction value includes all payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.

The protocol also covers reservations which may be made by developing countries upon signature to the agreement. These include reservations permitting: A request for an extension of the 5-year period for delay in application of the provisions of the agreement by developing countries, with the parties to the agreement giving sympathetic consideration to such a request in cases where the developing country can show good cause; a retention of officially established minimum values on a limited and transitional basis subject to agreement of parties to the agreement; a limitation by a developing country of the right of an importer to choose between constructive and deductive methods of valuation under article 4 of the agreement to those situations where the customs authorities in the developing country agree to the choice; and the application by a developing country of the deductive method of article 5.2 of the agreement whether or not the importer requests the application of such method. These potential reservations are designed to respond to LDC concerns about their technical ability to implement certain aspects of the agreement in a manner which protects them from unwarranted revenue losses and from fraud, and take account of concerns about disruption to the LDC's trade regime from too rapid change in practices.

The implementing bill itself approves the protocol and provides for its acceptance by the President. It amends the Trade Agreements Act of 1979 in several respects. As required by the protocol it would eliminate one of the three tests by which prices between related persons can be confirmed as transaction values for customs valuation purposes. This is accomplished by the deletion of section 402(b)(2)(B)(iii) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979.

It would also amend section 223(d)(2) of the Trade Agreements Act of 1979 by correcting 19 technical errors in this section and by restoring more appropriate rates of duty to 8 chemicals that were appraised by U.S. Customs as "noncompetitive" under the American selling price (ASP) valuation standard but that are currently grouped with "competitive" chemicals at higher rates of duty within this section. This transfer of these eight items is proposed by the administration at the request of our trading partners, and upon review by the staffs of the U.S. Customs Service and the U.S. International Trade Commission, and after consultations with representatives of the U.S. chemical industry.

Before submitting this implementing bill, the administration consulted with interested private sector parties and with the Senate Finance Committee and House Ways and Means Committee. The Finance Committee held hearings on the protocol and its implementation on April 2, 1980. The implementing bill was drafted in cooperation with the Finance Committee and Ways and Means Committee. No objections to the provisions of the protocol or its proposed implementation have ben received from any source.

Mr. President, following House action on this bill as required by the Trade Act of 1974, I hope the Senate will give its quick approval.●

By Mr. McGOVERN (for himself and Mr. NELSON):

S. 3021. A bill to amend certain provisions of the Federal Power Act, 16 U.S.C. 791a et seq., relating to preferences in issuance of preliminary permits or licenses; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWER

● Mr. McGOVERN. Mr. President, I am today introducing legislation which is designed to assist in development of one of this Nation's most important domestic energy resources—hydroelectric power.

This legislation, which is cosponsored by my distinguished colleague from Wisconsin (Mr. NELSON), is designed to place rural electric cooperatives on equal footing with municipalities and State agencies in the perference licensing of hydroelectric sites as provided for under the Federal Power Act.

The potential of hydropower is well known and need not be elaborated upon here. It is frequently identified as a substantial potential domestic energy resource. This Congress and others have gone on record in supporting development of hydropower. Our Nation is today confronted with spiraling costs for oil and other fossil fuels. As we endeavor to reduce our dependence upon imported energy supplies we cannot afford to overlook the important contribution the accelerated development of feasible hydropower sites can make in helping us achieve energy independence.

Over the last 50 years in numerous statutes, Congress has provided various forms of "preference" in the distribution of public water and power resources. In most instances this preference is shared by consumer-owned, nonprofit rural electric cooperatives, municipalities, and State and Federal Government agencies.

With some 1,000 rural electric cooperatives scattered among 46 States, the cooperatives are in close proximity to sites where additional hydropower potential can and should be developed. For this reason the preference contained in the Federal Power Act should logically be extended to the cooperatives.

The U.S. rural electric cooperatives have the interest and the will to assist in the development of this hydropower potential. This legislation will help them do so.

I ask unanimous consent that the text of this legislation be printed in the RECORD at this point.

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

S. 3021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 796 of title 16, United States Code, is amended as follows:

(1) from paragraph (5) strike the words, "or municipality", and insert "municipality or cooperative"; and

(2) by adding a new paragraph (8) as follows and renumbering as appropriate:

"(8) 'cooperative' means a non-profit-making organization of persons or cooperatives organized primarily for the purpose of supplying electricity to its own members;"

SEC. 2. Section 797 of title 16, United States Code, is amended as follows:

(1) in paragraph (e) insert after the word, "municipality", the words, "or to any cooperative" and

(2) in paragraph (f) strike the words, "State or municipality", and insert "State, municipality or cooperative".

SEC. 3. Section 800(a) of title 16, United States Code, is amended as follows: Strike the words, "States and municipalities", and insert "States, municipalities and cooperatives".

SEC. 4. Section 803(e) of title 16, United States Code, is amended as follows: Strike the words, "States or municipalities", and insert "States, municipalities or cooperatives".●

By Mr. BELLMON:

S. 3022. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers, and to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes; to the Committee on Labor and Human Resources.

WORKSHARING AND COMPRESSED WORK SCHEDULE

Mr. BELLMON. Mr. President, today I am introducing legislation which would encourage States to provide unemployment benefits to certain partially unemployed workers and would permit employers to restructure their work pro-

grams on the basis of a 4-day workweek of 10 hour days prior to the payment of overtime.

Section 1 through section 3 of my bill directly addresses the problems of cyclical unemployment and costly layoffs by encouraging employers to reduce hours of work rather than laying off employees during economic slowdowns. I want to express my appreciation to Representative PATRICIA SCHROEDER for the legislation she introduced in the House (H.R. 7529). My bill encompasses that basic legislation in section 1 to section 3.

Mr. President, the high levels of unemployment in many areas of our Nation are of continuing concern to all of us. This is not a new problem, but is one which needs new approaches. Layoffs this year have been enormous in the construction, automobile, rubber, and steel industries to name a few. With each recession, we seem to experience larger and larger swings in the economy followed by higher plateaus of higher residual unemployment. Layoffs cause loss of income, loss of pride, and probably additional crime and mental breakdowns. Layoffs also cause loss of valuable work skills to be lost to our economy. Those who are laid off cannot meet mortgage and car payments, and frequently will lose their health insurance and other fringe benefits. Layoffs deprive employers of skilled employees. Everybody loses. The Government loses, the employee loses, and the employer loses.

My bill would encourage one more alternative before an expensive layoff option is exercised. This bill would encourage States, employers, and employees to use reduced work hours and short-time compensation to avoid layoffs.

Mr. President, the promotion of work sharing could reduce the heavy burden of unemployment that has been borne by a relatively small portion of the work force. It would allow employed individuals to retain the fringe benefits that accompany job attachment and employment continuity. During a recession, work sharing can contribute to an early and sustaining recovery by retaining or restoring consumer confidence through job retention and retaining a skilled work force to meet required product demands. Work sharing could also help employers preserve the results of affirmative action employment that firms have undertaken. To all, work sharing could help reduce the social costs of unemployment in terms of added medical expenses, possible increases in crime rate, and mental breakdowns.

Mr. President, work sharing is no cure-all concept. It will probably not be practical for many firms. It may be usable only in a limited way by other firms. Work sharing certainly cannot substitute for timely fiscal and monetary policies. However, my legislation would allow those areas of the economy hurt by the business cycle or Government policies, the option to choose to reduce cyclical unemployment by spreading the available work to a large number of employees.

The bill I am introducing also authorizes the Secretary of Labor to develop model legislation, make grants, and provide technical assistance to States to assist in developing, enacting, and implementing short-time compensation programs.

The bill proposes voluntary use of short-time compensation. While State experimentation is encouraged, the legislation provides some basic guidelines to protect employees and the integrity of the unemployment compensation trust funds.

The bill would establish a controlled demonstration project to test the viability of short-time compensation as a way to reduce total layoffs during recessions.

Mr. President, sections 4 through 7 of the bill pertain to legislation, which I have earlier introduced (S. 2577), which would allow firms with Government contracts exceeding $10,000 to restructure their work week to a 4-day schedule while avoiding the increased cost of a longer workday.

Specifically, this part of the bill amends the Walsh-Healey Act of 1936 and the Contract Work Hours Standards Act of 1962 to permit employers to switch to a 4-day, 40-hour workweek without overtime for workers for hours worked in excess of 8 hours in 1 day.

Firms with Government contracts exceeding $10,000 would be allowed to restructure their workweek to a 4-day schedule while avoiding the increased cost of a longer workday.

Mr. President, in recent years experiments with the 4-day workweek have shown considerable promise. Some employers and employees have found it to be an arrangement more suited to their circumstances and desires than the 5-day workweek. Advantages claimed from switching to a 4-day workweek have included greater productivity and lower unit cost; reduced absenteeism, tardiness, and higher weekly output due to reduced startup and closedown time; more "usable leisure" time for employees due to a 50-percent increase in weekends; a reduction in total commuting time and associated energy costs; and reduced employee working costs such as commuting fares. restaurant lunches, and child care.

With our current and potential energy problems, the 4-day workweek has another advantage. For many workplaces, closing for a 3-day weekend would mean a substantial reduction in the consumption of energy for temperature control purposes. Building heat could be reduced to a minimum without endangering the health of employees for 3 out of 7 days of the week.

The potential advantages of a 4-day workweek are not available in the case of some firms—those with Government contracts—because present law would penalize the employer who shifted to a 4-day, 10-hour per day workweek by requiring the payment of overtime after 8 hours in each day. This bill makes it possible for such employers to undertake a 4-day, 10-hour per day workweek without such a penalty. These employers would remain subject to the overtime penalty after 10 hours in each day and, of course, after 40 hours in each week, as are all employers under the basic law governing wages and hours—the Fair Labor Standards Act.

I am sure, Mr. President, that we all recognize the lengthy struggle which American workers undertook to establish the 8-hour day. Viewed against the backdrop of working conditions in the earlier part of this century, that struggle resulted in a significant improvement in the working lives of many Americans. I can understand the reluctance of some workers and their unions, to alter this hard-won pattern. However, circumstances change, and this country is no longer faced with the long daily hours of work it once had. Now we must cope with an energy shortage which threatens the livelihood of a good many people and which is bound to get worse before it gets better. With many examples of successful 4-day workweek experiments around the country, this option would be helpful to the Nation's energy conservation goals.

Mr. President, we need the additional flexibility in our basic wage and hour laws which this legislation would provide. Flexibility is needed to allow us to conserve energy and provide more work-schedule options than is now possible.

Mr. President, I ask unanimous consent that a paper reviewing the experiences with work sharing be included in the RECORD. I would also like to thank Phil Crouise, a conference board congressional fellow on loan to the Senate Budget Committee from Sun, Inc., for the staff work he has done in the work sharing area. Also, I am deeply appreciative of the work Dick Woods of my personal staff has done on the 4-day workweek.

I ask unanimous consent that the full text of the bill and a statement entitled "Experiences in Work Sharing" be printed in the RECORD.

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

S. 3022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEVELOPMENT OF STATE PROGRAMS

SECTION 1. (a)(1) The Secretary of Labor (hereinafter in this Act referred to as the "Secretary") shall develop legislation which may be used by States as a model in developing and enacting short-time compensation programs.

(2) The Secretary may make grants, and provide technical assistance, to States to assist in developing, enacting, and implementing short-time compensation programs.

(3) States are encouraged to experiment in carrying out the purpose and intent of this Act. However, to assure minimum uniformity, the Secretary may require the provisions contained in subsections (b) and (c).

(b) For purposes of this Act, the term "short-time compensation program" means a program under which—

(1) individuals whose workweek has been reduced pursuant to a qualified employer plan by at least 10 percent will be eligible for unemployment benefits,

(2) the amount of unemployment benefits payable to any such individual shall be at least a pro rata portion of the unemployment benefits which would be payable to the individual if the individual were totally unemployed,

(3) short-time compensation benefits attributable to services with employers who have positive reserve accounts shall be financed by the usual manner of charging reserve accounts by experience rating,

(4) employers with negative reserve accounts may be required by the State to make reimbursement to the trust fund quarterly for costs attributable to utilization of short-time compensation benefits charged against their reserve accounts, or may be charged a surtax by the State,

(5) eligible employees may apply for and collect short-time compensation or regular unemployment compensation benefits, as needed; but no employee may collect more than the maximum unemployment compensation benefit to which they would have been entitled for full-time unemployment, and

(6) eligible employees will not be expected to meet the availability for work or work search test requirement while collecting short-time compensation benefits; however, they must be available for their normal workweek.

(c) For purposes of subsection (b), the term "qualified employer plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees rather than total layoffs if—

(1) the employer's short-time compensation plan is approved by the State agency,

(2) the employer certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of total layoffs which would result in an equivalent reduction of work hours,

(3) the employer continues to provide health and pension benefits to employees whose workweeks are reduced under such plan at the same level as provided before such reduction, and

(4) in the case of employees represented by a union, the appropriate official of the union (or union hall) has consented to the plan and implementation is consistent with employer obligations under the National Labor Relations Act.

(d) For purposes of sections 1 through 3 of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

DEMONSTRATION PROJECTS

SEC. 2. (a) The Secretary shall conduct one or more controlled demonstration projects for purposes of evaluating the effectiveness of short-time compensation programs.

(b) Any demonstration project under subsection (a) shall be conducted in cooperation with the State agency which administers the unemployment compensation law for the State in which such project is conducted.

(c) The costs of administering any demonstration project conducted under subsection (a), and of the benefits paid under such project, shall be paid by the Secretary.

REPORTS

SEC. 3. (a) The Secretary shall submit to the Congress two interim reports on the implementation of sections 1 through 3 of this Act. The first of such interim reports shall be submitted on or before October 1, 1982.

(b) Not later than October 1, 1983, the Secretary shall submit to the Congress and to the President a final report on the implementation of sections 1 through 3 of this Act. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable.

WALSH-HEALEY ACT AMENDMENT

SEC. 4. Section 1(c) of the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35) is amended by inserting before the colon the following: ", or, in the case of a four-day workweek, in excess of ten hours in any one day or in excess of forty hours in any one week".

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT AMENDMENT

SEC. 5. Section 102(a) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 328) is amended by adding at the end thereof the following new sentence: "In the case of a four-day workweek, the increased rate of pay provided by the preceding sentence shall apply only to hours worked in excess of ten hours in any calendar day, or in excess of forty hours in the workweek, as the case may be.".

EFFECTIVE DATES

SEC. 6. (a) The amendments made by sections 4 and 5 of this Act shall not affect collective bargaining agreements in effect on the date of enactment of this Act.

(b) The amendment made by section 6 of this Act shall become effective thirty days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. For the fiscal year beginning October 1, 1980, and the two succeeding fiscal years, there are authorized to be appropriated from the general fund of the Treasury such sums (not to exceed a total of $10,000,000 for such 3-year period) as may be necessary to carry out the purposes of sections 1 through 3 of this Act.

EXPERIENCE IN WORK-SHARING

(By Philip C. Crouse, Senate Budget Committee)

I. EUROPEAN EXPERIENCE

A. Societal differences

1. Industrial practice in western European countries has led to a closer attachment of the worker to his job than is prevalent in the United States, thus contributing to differences in historical development.

2. Europeans expect their jobs to be maintained through prosperous periods and recessions.

3. The European attitude and experience is for a far greater use of work-sharing arrangements in slack periods than is common in the United States.

4. Since the normal European work week is well over 40 hours in many cases and overtime is prevalent in some industries, trade unions campaign actively for reductions in standard hours and endorse work-sharing as one method to reach their goal.

B. Areas of implementation

1. Collective bargaining agreements
2. Legislation-state/federal

C. Tools utilized when a temporary slowdown occurs

1. Elimination of overtime
2. Reduction of hours
3. Extensions of vacations
4. Division of work

D. German results

1. Benefits under the 1969 Employment Promotion Act compensate workers for roughly two-thirds of lost wages as a result of temporary work schedules below normal standards for 6 months up to 24 months in some circumstances.

2. In the spring of 1975, an average of 773,300 workers were receiving short work week benefits in Germany, roughly equivalent to the number of fully unemployed workers. In a typical situation, standard working hours were cut by about one-third and the total time compensated would have averaged out to an additional 170,000 unemployed workers. German government officials indicated that such a plan kept unemployment 17% below what it would have been otherwise.

3. Local employment service offices persuade firms to resort to short time working in preference to redundancies. The Federal Minister of Labour is empowered to extend the period of short time payments to 24 months. Short time wages amount to 68% of the wages lost as a consequence of short time schedules. German companies must show that one-third of its workers would be laid off for at least one-tenth of their normal working time for "unavoidable" reasons such as recession

E. Austria experience

1. Short time workers receive about 40–60% of the earnings foregone.

2. Short time work is limited to three months. Employers are obliged to keep their employment level for three months after the short time work. However, the Austrian authorities prefer to utilize another program which provides training instead of short time work. In this case workers are offered 60–80% of normal weekly earnings during the time of retraining.

F. Belgium experience

1. Short time workers receive 60% of lost earnings except that those who have been previously fully unemployed can claim only a 40% rate.

G. Denmark experience

1. Trade unions have issued guidelines for the conclusion of local agreements to reduce working. Under these guidelines the period of reduced working time should not last more than two months. Also, no workers should be discharged in this period for economic reasons, temporary unemployment should be arranged to occur in as long consecutive periods as possible. Distribution of available work is agreed locally. No public funds are utilized to supplement the earnings of workers on part time.

H. France experience

1. Each hour for which benefit is payable entails payment by the firm of an hourly allowance in addition to official partial unemployment benefit so that the worker concerned receives 50 percent of his gross hourly earnings, with a lower limit set. The number of hours for which benefit is paid is fixed at 470 in 1975. The government will reimburse the firm for up to 90 percent of the proportion of benefit for which the firm is responsible.

I. Italy experience

1. Italy provides a guaranteed income of 66 percent of normal earnings for a reduction in working hours not exceeding 16 hours per week and not continuing longer than three months. An area of serious difficulty involves a policy in which the construction industry, even for time lost through bad weather, and firms which are being restructured and converted to new types of operations, can receive compensation amounting to 80 percent of normal earnings.

2. Benefits are financed by a .22 percent levy on firms' salary bills plus a state contribution of 20 billion lira a year.

J. Luxembourg experience

1. A worker who is partially unemployed because of the short term situation receives a gross compensatory wage amounting to 80 percent of his normal gross wage including current bonuses. The first 16 hours not worked per month are not compensated by the Government and the employer and the worker have to fend for themselves.

2. The compensatory wage due for working hours lost above 16 hours per month is advanced by the employer and reimbursed by the Government.

3. Compensation is not paid for hours not worked in excess of 50 percent of those which should have been worked.

4. The gross hourly compensatory allowance may not exceed 250 percent of the minimal standard industrial wage.

5. The benefit is allowed for 6 consecutive or non-consecutive months per firm.

6. Decisions to apply the regulations are taken jointly by the Minister of Labour and

Social Security and the Minister of the National Economy on the basis of financial evidence supplied by the firm and on the advice of a tripartite committee set up for this purpose.

K. The Netherlands experience

1. Law makes it impossible for employers to dismiss workers without the agreement of the Minister of Social Affairs. Investigations are undertaken to see whether employment could be maintained by introducing shorter working hours or by providing temporary financial assistance. Government efforts have continued to be directed towards preventing the closure of enterprises and retrenchments.

2. Employers are forbidden by law to reduce an employee's working hours to less than 45 hours a week without Government permission. If an exception is granted the employer pays the full hourly rate for hours worked, 80 percent of the hours not worked are met from the compensation fund of the appropriate industrial insurance board and the remaining 20 percent is met by the employer on the basis of collective agreements in force.

L. Japan experience

1. Employees who implement systems of non-duty allowances during temporary layoffs can be granted a subsidy to cover part of the allowance.

II. UNITED STATES EXPERIENCE

A. Historical approach

1. Although a number of unions have gained collective bargaining provisions calling for a reduction in hours or sharing of work among employees before layoffs are permitted, in most cases, these clauses are only optional and in only few industries are they systematically observed. The overall U.S. experience with work-sharing has really been quite limited.

B. Collective bargaining agreements data

1. For 1974, 311 of 1550 agreements (2.1 million workers out of 7.2 million workers) include clauses calling for the reduction of hours.

2. For 1974, 119 of 1550 agreements (.8 milion workers out of 7.2 million workers) include clauses calling for the division or sharing of work.

3. For 1979, it is estimated that 25 percent of the agreements contain work-sharing provisions.

4. Division of work clauses predominate in the apparel industry where the technique has been utilized historically to handle the variation in workloads.

5. Provisions calling for the reduction in hours are not concentrated in any industry or group of industries and the use of this procedure is optional rather than mandatory.

6. The normal limit under an hours-reduction clause is to 32 hours.

C. California experience

1. Program for work-sharing provided in August 1978 as a measure to reduce the massive layoffs of public employees anticipated to be caused by Proposition 13.

2. State's unemployment law was temporarily modified to pay partial benefits for up to 20 weeks to workers whose companies put them on short work time.

3. As of October 1979, 312 employers had put some 7,600 workers on short work weeks and used the new system. Of the 312 employers, only 6 were public agencies.

4. California has extended the program until January 1981.

5. The California program was modeled after a similar program, called *Kurzarbiet*, of West Germany.

6. The California plan requires that companies must be faced with a 10 percent reduction in hours for all workers and maximum payment is $21 for idle days. The higher the income of the worker, the less percentage of his reduced salary can be recouped because of the 21 dollar ceiling.

7. California law requires employers who take more out of the unemployment fund than they put in must make higher contributions in the next tax year.

D. General experience

1. Clauses are in fact invoked rather infrequently.

2. Layoffs according to seniority have become the general rule.

By Mr. DECONCINI:

S. 3023. A bill to amend section 547 of title 11 of the United States Code, dealing with preferences in bankruptcy cases; to the Committee on the Judiciary.

● Mr. DECONCINI. Mr. President, I am introducing today a bill, S. 3023, to amend section 547 of title 11 of the United States Code, dealing with preferences in bankruptcy cases.

A problem has arisen with respect to the impact of section 547 of the 1978 Bankruptcy Code on the market for commercial paper notes issued in maturities of up to 270 days which are backed by bank letters of credit or commitments to lend or by indemnity bonds issued by insurance companies.

Such commercial paper has normally been assigned a credit rating by the appropriate rating agencies based upon the credit standing of the bank or insurance company which issues the letter of credit, commitment to lend or indemnity bond rather than the issuer of the commercial paper itself, thereby affording the issuer a less expensive method of borrowing than would be available to it based upon its own credit-worthiness.

In light of the changes effected under the Bankruptcy Code, in the event the issuer becomes a debtor in a proceeding under the Bankruptcy Code, payments received from the issuer by holders of its commercial paper during the 90-day period preceding the filing of the petition could be vulnerable to avoidance by the issuer's trustee as a preferential transfer under section 547. If such payments were avoided by the trustee, the holder of the commercial paper would no longer have recourse against the supporting bank or insurance company inasmuch as any supporting letter of credit would have terminated soon after the maturity date of the commercial paper and in any event long before the trustee sought recovery of any such payment. Any supporting commitment to lend or indemnity bond would most likely have terminated prior to the filing of the petition or would have been used for the benefit of purchasers who were not paid prior to the filing date.

Thus, a purchaser of commercial paper who has been paid by a debtor could be forced to disgorge the payment he has received and would not thereafter have recourse to the bank or insurance company support for which it originally bargained while a purchaser who was not paid prior to the filing of the petition could after the filing date obtain payment from the supporting bank or insurance company.

This type of transaction was not perceived to be a problem under section 60 of the old Bankruptcy Act because of the requirement that the trustee prove that recipients of alleged preferential payments have reasonable cause to believe that the debtor was insolvent. However, given the operation of the commercial paper market, and since purchasers of commercial paper in the above described transactions would not be relying on the credit of the issuer and would, therefore, have no reason to make inquiry with respect to the financial condition of an issuer, such purchasers would not generally have reasonable cause to believe an issuer to be insolvent at the time of payment.

The new Bankruptcy Code, by eliminating the reasonable cause requirement, has created additional exposure for holders of such commercial paper, which may cause reconsideration of credit ratings and otherwise adversely affect such commercial paper transactions in a way which was not intended by Congress. Unless remedial action is taken promptly, the problem described may result in higher costs of borrowing, or possibly loss of access to the commercial paper market, for certain issuers.

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

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

S. 3023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(7) to or for the benefit of a creditor to the extent such transfer was made to such creditor in payment of a debt evidenced by a note issued by the debtor which had a maturity not exceeding nine months and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, commitment to lend funds or bonds of indemnity issued by a bank or by an insurance company." ●

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. NELSON, Mr. LEVIN, Mr. JAVITS, Mr. EAGLETON, Mr. GLENN, Mr. BIDEN, Mr. LUGAR, Mr. BAYH, Mr. BOREN, Mr. BRADLEY, Mr. METZENBAUM, Mr. MITCHELL, Mr. HOLLINGS, Mr. STEWART, Mr. SARBANES, Mr. MELCHER, Mr. WILLIAMS, Mr. DURKIN, Mr. EXON, Mr. DOLE, Mr. BENTSEN, Mr. KENNEDY, Mr. LEAHY, Mr. SASSER, and Mr. BUMPERS):

S.J. Res. 193. Joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States; to the Committee on Finance.

LIMITATION OF AUTOMOTIVE IMPORTS

Mr. RIEGLE. Mr. President, the resolution being introduced today with 27 cosponsors will give the President explicit authority to enter into negotiations with foreign governments to relieve foreign penetration of the U.S. automobile and truck markets.

This bipartisan coalition of Senators, representing many parts of this Nation

and diverse philosophies, is taking this action because further delay endangers millions of American jobs, would cost our Nation billions of dollars and permanently damage the structure of the U.S. auto industry for years to come.

We are proposing a joint resolution that will have the force of law once it passes both Houses of Congress and is signed by the President, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Our proposal is a carefully tailored one. While it would allow the President to begin immediate discussions with the Japanese that could lead to an orderly marketing agreement temporarily reducing Japanese imports, it would not direct the President to enter into such negotiations or give him new powers to impose quotas unilaterally.

The preamble of the resolution would establish that it is the intent of Congress:

First, to permit auto trade negotiations with the Japanese even while the International Trade Commission proceeds with its investigation, and

Second, not to prejudice the question of whether or not negotiations on an auto import agreement could be conducted under any other Presidential powers.

Subsection (a) of the first section would give the President authority to negotiate with foreign governments to obtain import restraint agreements on cars and trucks. That authority and any agreement would expire on July 1, 1985, thus limiting any import reduction to the period vitally needed to convert the U.S. auto manufacturing facilities to the production of highly fuel efficient cars and trucks.

Subsection (b) would require the President to consult with interested parties in the private sector before entering into any agreement. The President could use the system of trade advisory committees that has been established under section 135 of the Trade Act of 1974, as amended, or a less formal procedure if that is more appropriate.

Subsection (c) would enable the President to implement any agreement by authorizing him to regulate the introduction of foreign cars into the U.S. market in accordance with the terms of that agreement.

Section 2 would exempt the act of entering into an auto export agreement, and any action that the Attorney General determines is needed to implement such an agreement, from antitrust and other laws of the United States. This is intended to prevent the implementation of an agreement from being delayed by court suits.

Auto manufacturing is the keystone of this Nation's economy. It directly creates 1 out of every 12 manufacturing jobs and generates prime demand for such basic industries as steel, aluminum, rubber, textiles, machine tooling, and, increasingly, electronics. It affects the economy of every State, and its health is vital to 50,000 small and medium-sized supplier firms and to 28,000 auto dealers.

The collapse of domestic auto sales has caused the layoff of 1 million American workers and has dangerously weakened the financial structure of the U.S. economy's dominant industry. National unemployment now stands at 7.8 percent and is expected to climb to 9 percent by the end of the year. In some States and regions of the country, unemployment has reached levels which are catastrophic.

The Japanese efforts to further penetrate the U.S. market are escalating these problems into a catastrophe. Japanese imports now exceed 22 percent, and the Japanese are expanding their capacity enough to supply 50 percent of this country's vital small car market. That threatens to cause a massive permanent loss of U.S. jobs and a continued rise in the auto trade deficit with Japan well beyond the present $10 billion deficit.

In my own State of Michigan, unemployment is at an almost unbelievable 14.1 percent, the highest for any State since the Great Depression; 607,000 people are now jobless in my State. More than 409,000 people are collecting unemployment insurance, but some 93,000 have been out of work so long that they have exhausted all their unemployment insurance benefits; 161,000 more will exhaust their benefits before the year is out. More than one in nine of our citizens have been forced to turn to some form of public assistance. We are suffering from the greatest economic catastrophe since the Depression of the 1930's. These are stark and brutal facts. They paint a grim picture of the human devastation to the people of my State.

But while the worst of this recession is centered in Michigan, it is a national problem where unemployment has now reached 9.7 percent in Ohio, 8.6 percent in Illinois, 7.9 percent in New Jersey, 7.7 percent in Pennsylvania, and 7.3 percent in New York. Because of the large size of these industrial States, the percentage figures represent millions of persons.

Of particular concern is the strategy of Japanese automakers to penetrate the U.S. market. They have already strengthened their U.S. retail networks, increased overtime and expanded production capacity to capture a whopping 22 percent of the U.S. auto sales in 1980. Because auto consumers typically show strong brand loyalty, the Japanese penetration threatens to permanently restructure the U.S. auto market and reduce the market shares and employment of domestic car manufacturers.

The Japanese Government has indicated its willingness to work out mutually acceptable limits on auto exports and avoid further disruption of the U.S. auto market but they will not act until the President of the United States acts forcefully to raise this issue with them. The administration estimates that a reduction in Japanese imports to the 1979 level of approximately 1,600,000 autos would return 70,000 to 100,000 Americans to work. If, for example, auto imports had remained at that level this year, then Federal and State governments would have avoided an estimated $2.1 billion in lost revenues and increased spending.

Administration officials, however, believe that they need additional legal authority before they can enter into such negotiations. While there is considerable disagreement about the President's present authority to act in this matter, Congress should clear any legal obstacles to negotiations that both sides feel would be in the long-term interests of both countries.

Yesterday, top officials of the Japanese Ministry of International Trade and Industry said they could not unilaterally impose quotas on auto exports to the United States to placate U.S. criticism of Japan's rapid advance into the American auto market. Top officials of the Ministry of International Trade and Industry during a meeting with new Prime Minister Zenko Suzuki, said neither the Ministry nor the auto industry would take steps to set a limit on exports to the United States because such measures might violate U.S. antitrust laws. The officials told Suzuki that the Ministry continues to urge the auto industry to "show restraint" in its exports to the United States.

Clearly an initiative is needed from this side of the Pacific Ocean and is long overdue.

The resolution we introduce today would break the present impasse and give the President explicit authority to enter into such negotiations. The resolution draws on the language of section 204 of the Agricultural Act of 1956, which provided authority for Presidents Kennedy, Johnson, Nixon, Ford, and Carter to conduct textile trade negotiations. This is a precise legislative precedent which provides a solid foundation for the action now needed with respect to auto imports.

It is vital that this legislation pass as quickly as possible and that the President of the United States act without delay to stop the damage being done to American workers, American industry, and our national economy.

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

S.J. RES. 193

Whereas, the President should be able to negotiate agreements with foreign governments to relieve foreign penetration of the United States automobile and truck markets, notwithstanding any proceeding pending before, or investigation being conducted by, the United States International Trade Commission, and

Whereas, the Congress intends to remove any potential obstacle to such negotiations, without prejudicing the President's right to conduct such negotiations under other provisions of law: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may, whenever the President determines such action appropriate, negotiate with representatives for foreign governments in an effort to obtain agreements limiting the export from such countries, and the importation into the United States, of automobiles and trucks, enter into, and carry out such agreements. The authority provided by the preceding sentence, and any agreement entered into pursuant to such negotiations, shall expire on July 1, 1985.

(b) The President shall seek information and advice from representative elements of

the private sector, including representatives of consumers, with respect to negotiating objectives and bargaining positions before entering into an agreement referred to in subsection (a) either in accordance with section 135 of the Trade Act of 1974 or in accordance with such other procedures as the President may establish.

(c) The President is authorized to issue regulations governing the entry or withdrawal from warehouse of such automobiles or trucks to carry out any agreement referred to in subsection (a).

SEC. 2. No action (including agreements between or among private parties) taken pursuant to an agreement referred to in subsection (a) of the first section of this joint resolution that is necessary to carry out obligations undertaken in connection with the agreement (as determined under regulations prescribed by the Attorney General after consultation with the Secretaries of the Treasury and Commerce) shall be treated as a violation of any law of the United States.

● Mr. ROTH. Mr. President, I join my colleague from Michigan in urging support for this most important joint resolution. Our automotive industry is in desperate need of import relief, and if we are to provide our workers and firms with the time they need to adjust to import competition, we must clear the way for the President to negotiate temporary trade restraints. If approved, this joint resolution would provide the President with the authority to enter into serious negotiations with our trading partners. This resolution would help overcome the impasse we have reached with the Japanese, who are unwilling to enter into quantitative arrangements with the United States without a congressionally mandated go-ahead. This joint resolution would give the President the green light he needs to enter into discussions. It does not, however, require him to negotiate.

Imports threaten the very existence of this crucial domestic industry. While from 1970 to 1976, imports served 15 percent of the domestic markets, as of the first quarter of this year, imports had captured 27 percent. Japan accounted for over three-quarters of our imports shipping almost 2.3 million cars to the United States in 1979.

In June, the United Auto Workers of America filed a petition with the U.S. International Trade Commission seeking temporary relief from import competition for U.S. auto producers. In their so-called section 201 petition, the UAW requested tariffs be increased on cars, high import duties be maintained on trucks and quotas be imposed on cars and trucks. The Trade Commission, despite a plea by President Carter and 50 Republican and Democratic Senators to expedite its investigation, will not hold hearings on the UAW petition until October. Mr. President, we cannot wait that long. Our industry must be provided for now, not 4 or 5 months from now when imports will have done even greater damage.

The health of our automotive sector should be of serious concern to all Americans. As a leader of the Free World, we must maintain one of the industries that form the economic and national security backbone of our country. Declines in our automotive industry have sent shocks through our economy. They have meant lost Federal, State, and local revenues, serious declines in employment and a loss of welfare for all Americans.

As of today, more than 300,000 auto workers are out of jobs. Twice that many workers have been laid off in industries that supply needed goods and services to our auto and truck producers. Auto production supports thousands of jobs among producers of steel, rubber, glass, plastics, zinc, electronic products, and aluminum. In the services area, American car haulers, dealers and others in our vast automotive distribution network are seeing their source of livelihood disappear, as imports capture an increasingly larger share of the domestic market. We must reverse the downward spiral of the American truck and auto industry if we are to restore a vital part of our national economy to health.

The U.S. automotive industry has made a commitment to retool and meet foreign competition. Firms are spending tens of billions of dollars to produce small, and technologically advanced cars that will satisfy the needs of American consumers for more fuel-efficient models. It is estimated that, by 1983, our manufacturers should produce 7.6 million small cars, as compared with the 1.4 million they expect to manufacture in 1980. If they do not receive the breathing space they need from ever-expanding import competition, however, many of the dollars they invest now will be wasted.

The United States has traditionally been one of the most open markets in the world. While I applaud this stance, and ardently support free and fair trade over the long term, I believe we must recognize the adverse impact that such free trade policies have had on many of our basic domestic industries. It is high time we rectify this situation and provide relief. Import measures must not become permanent fixtures in the American economy, but to the extent that we can help key industries regain international competitiveness we should do so.

This joint resolution, which provides for the expiration on July 1, 1985, of any quantitative agreement negotiated under this authority, preserves the temporary nature of import relief. I believe it is a resolution we can, and should, agree to in order to give the President the legal basis he needs to negotiate.●

PROPOSED RESOLUTION ON AUTO IMPORT NEGOTIATIONS BY SENATOR GAYLORD NELSON

● Mr. NELSON. Mr. President, I am pleased to join 24 of my colleagues in introducing Senate Joint Resolution 193, a joint resolution giving the President explicit authority to negotiate auto impart limitations with foreign governments.

The U.S. automobile industry is in deep trouble. Domestic producers sold over a million less cars in the first half of 1980 than in the first half of 1979, a drop of some 23 percent. The collapse in auto sales has thrown 350,000 auto workers out of work, together with hundreds of thousands more in related industries, such as steel, rubber, textiles, and tools. According to one study, the crisis in the auto industry could cost Federal and State Governments over $2 billion this year alone in lost revenues and increased spending.

The major reason for the plight of the auto industry is the incredible shortsightedness of the domestic auto manufacturers themselves. They refused to recognize the coming world oil shortage and convert their plants to the production of fuel-efficient autos.

At the same time, however, sales of foreign cars in the United States have increased dramatically in the past several years, and now pose a major threat to the continued vitality of the domestic industry. Foreign cars accounted for a whopping 27 percent of all new car sales in the United States in the first half of 1980, and their market share is increasing. Of particular concern are auto imports from Japan, which alone account for 80 percent of the import share of our market.

Given the steadily rising market share captured by Japanese autos, and the strong brand loyalty typically shown by auto consumers, there exists the danger of permanent structural damage to the domestic industry unless it is given time to retool its production lines for the manufacture of the small, fuel-efficient cars the consumer demands.

In my judgment, therefore, it is imperative that the United States negotiate a temporary import restraint agreement with Japan. In contrast to our de minimis 2.9 percent ad valorem tariff on auto imports, our major trading partners all have tough restrictions on the number of Japanese vehicles they import each year. According to the administration's own figures, a reduction in imports to 1979 levels could increase domestic auto sales by 500,000 units and return 70,000 to 100,000 auto workers to work.

The Japanese Government has indicated its willingness to work out mutually acceptable limits on auto exports and avoid further disruption of the U.S. auto market. The administration, however, has taken the position that it may not have legal authority to negotiate such an agreement, absent a finding of injury by the International Trade Commission in the auto import relief case now before it, or a clear congressional authorization of negotiations. While there is some disagreement over the correctness of the administration's view, the fact remains that the administration will not enter negotiations as long as it believes it lacks the power to do so.

This resolution will remove this cloud of uncertainty, and give the President explicit authority to enter into such negotiations. The resolution draws on the language of section 204 of the Agricultural Act of 1956, which provided authority for Presidents Kennedy, Johnson, Nixon, Ford, and Carter to conduct textile import restraint agreements.

This proposal is a carefully tailored one. It does not direct the President to enter into negotiations, nor does it give him new powers to impose unilateral

quotas. Moreover, it would require the President to consider the views of private sector groups, including consumers, before entering any agreement. Finally, the resolution mandates that the President's negotiating authority, and any agreement reached, shall expire no later than July 1, 1985. Therefore, any restrictions that might be imposed would be temporary and limited to the critical period needed to convert the U.S. auto industry to the production of fuel-efficient cars.

In my view, the predicament of the auto industry requires that the President be given negotiating authority promptly. Further delay could well increase the lasting damage to the industry and the permanent loss of American jobs. I would urge my colleagues to give their full support to this resolution.

Mr. President, I ask unanimous consent that the text of this resolution be printed at this point in the RECORD, followed by two charts concerning auto import restrictions and local content rules established by other countries.

There being no objection, the joint resolution and tables were ordered to be printed in the RECORD, as follows:

S.J. RES. 193

Whereas, the President should be able to negotiate agreements with foreign governments to relieve foreign penetration of the United States automobile and truck markets, notwithstanding any proceeding pending before, or investigation being conducted by, the United States International Trade Commission, and

Whereas, the Congress intends to remove any potential obstacle to such negotiations, without prejudicing the President's right to conduct such negotiations under other provisions of law: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may, whenever the President determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries, and the importation into the United States, of automobiles and trucks, enter into, and carry out such agreements. The authority provided by the preceding sentence, and any agreement entered into pursuant to such negotiations, shall expire on July 1, 1985.

(b) The President shall seek information and advice from representative elements of the private sector, including representatives of consumers, with respect to negotiating objectives and bargaining positions before entering into an agreement referred to in subsection (a) either in accordance with section 135 of the Trade Act of 1974 or in accordance with such other procedures as the President may establish.

(c) The President is authorized to issue regulations governing the entry or withdrawal from warehouse of such automobiles or trucks to carry out any agreement referred to in subsection (a).

SEC. 2. No action (including agreements between or among private parties) taken pursuant to an agreement referred to in subsection (a) of the first section of this joint resolution that is necessary to carry out obligations undertaken in connection with the agreement (as determined under regulations prescribed by the Attorney General after consultation with the Secretaries of the Treasury and Commerce) shall be treated as a violation of any law of the United States.

TABLE 1.—NATIONS WITH MAJOR DOMESTIC AUTO PRODUCTION (EXCLUDING JAPAN)

Country	1979 car industry sales (thousands)	1979 Japanese car import market share (percent)	Protection of domestic car industry
Brazil	830	(1)	95 percent local content or 185–205 percent duty.
Mexico	268	(1)	50 percent local content.
Venezuela	94	(1)	51 percent local content or 120 percent duty.
South Africa	213	(1)	66 percent local content or 95 percent duty.
Spain	588	(1)	63 percent local content and import quota of about $500,000 in car value per country.
Italy	1,329	(1)	11 percent duty[2] and bilateral import quota restricting Japanese imports to 2,000 cars a year.
Argentina	196	1.2	95 percent local content or 95 percent duty.
France	1,976	2.2	11 percent duty[2] and informal limit on Japanese car share to 3 percent or less.
Germany	2,567	5.7	11 percent duty.[2]
Canada	1,005	8.2	14 percent duty.
United Kingdom	1,716	10.8	11 percent duty[2] and agreement with Japanese to restrict car market share to 10–11 percent or less.
Australia	458	15.2	85 percent local content or 58 percent duty (quota limits import share to 20 percent of market).
United States	10,510	16.6	3 percent duty.

[1] Less than 0.1 percent. [2] Effective rate is about 14 percent because of c.i.f. basis (f.o.b. cost plus insurance and freight and value-added taxes

TABLE 2.—*Local content laws regarding auto trade*

Algeria, 25–40 percent depending on model.

Argentina, 90 percent for cars, 85–95 percent commercial vehicles.

Australia, 85 percent with a variety of small percent decreases in special cases.

Bolivia, considering 80 percent.

Brazil, 85–100 percent depending on model.

Chile, 15–30 percent plus stiff tariff, depending on model.

Columbia, 30–45 percent depending on model.

Egypt, announced goal of 100 percent.

India, 40–45 percent, goal is 100 percent.

Indonesia, 25 percent.

Kenya, 45 percent (100 percent of the engine).

Malaysia, 8 percent cars, 17 percent commercial vehicles.

Mexico, 70 percent cars, 80 percent trucks.

New Zealand, 30–40 percent depending on model.

Nigeria, 15 percent.

Pakistan, depends on model, must use pistons, tires from local producers.

Peru, 30 percent.

Philippines, 62.5 percent cars, 30–60 percent commercial vehicles.

Portugal, 25 percent.

Singapore, 13 percent.

South Africa, 66 percent of weight for cars.

South Korea, 100 percent goal, not enforced.

Spain, 50 percent.

Taiwan, 60 percent cars, 32–46 percent trucks.

Thailand, 40 percent.

Tunisia, 20–26 percent cars, 40–44 percent trucks.

Turkey, 80 percent cars, 65 percent trucks.

Uruguay, 20–25 percent cars, 5 percent commercial vehicles.

Venezuela, 70–75 percent depending on model.

Yugoslavia, 50 percent.

Source.—USTR, LOC Law Library, House Ways and Means Committee, MVMA.●

ADDITIONAL COSPONSORS

S. 621

At the request of Mr. MATHIAS, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 621, a bill to provide for further research and services with regard to victims of rape.

S. 2718

At the request of Mr. STEVENSON, the Senator from Utah (Mr. HATCH), the Senator from Louisiana (Mr. LONG), the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2809

At the request of Mr. PACKWOOD, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2809, a bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled.

S. 2823

At the request of Mr. CHAFEE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2823, a bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas.

S. 2900

At the request of Mr. MATHIAS, the Senator from Maine (Mr. COHEN) and the

Senator from Louisiana (Mr. LONG) were added as cosponsors of S. 2900, a bill to amend the Internal Revenue Code of 1954 to exempt officers and crewmembers of fishing vessels up to 15 tons from the provisions of the Federal Unemployment Tax Act.

S. 2970

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 2970, a bill to amend section 404 of the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable and for other purposes.

S. 2979

At the request of Mr. METZENBAUM, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

S. 2983

At the request of Mr. SCHWEIKER, the Senator from New Mexico (Mr. SCHMITT), the Senator from Nevada (Mr. CANNON), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2983, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains.

S. 3010

At the request of Mr. LAXALT, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 3010, a bill to designate the hospital known as the Veterans' Administration Hospital, located in Reno, Nev., as the "Ioannis A. Lougaris Veterans' Administration Medical Center."

SENATE JOINT RESOLUTION 30

At the request of Mr. WILLIAMS, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Joint Resolution 30, a joint resolution authorizing and requesting the President to issue a proclamation designating the month of June as "National First Aid Month."

SENATE JOINT RESOLUTION 39

At the request of Mr. RANDOLPH, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of Senate Joint Resolution 39, a joint resolution to provide for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 192

At the request of Mr. THURMOND, the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arizona (Mr. DECONCINI), the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Arkansas (Mr. PRYOR), the Senator from New Hampshire (Mr. DURKIN), the Senator from Oklahoma (Mr. BOREN), the Senator from North Dakota (Mr. BURDICK), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Carolina (Mr. HELMS), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. JEPSEN), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from California (Mr. HAYAKAWA), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Joint Resolution 192, a joint resolution to designate September 21, 1980, as "National Ministers Day."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DANFORTH, the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution to disapprove the determination of the President not to provide import relief for the Leather Wearing Apparel Industry.

SENATE RESOLUTION 486

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of Senate Resolution 486, a resolution to express the sense of the Senate with regard to Metropolitan Washington Airports Policy.

SERVICE FUNDING FOR VICTIMS OF RAPE—COSPONSOR

Mr. MATHIAS. Mr. President, on July 24, the Mental Health Systems Act passed the Senate. That legislation included a title authorizing service funding for victims of rape. I was pleased to have introduced that title as separate legislation in this Congress as S. 621.

Through an oversight, the name of my distinguished colleague from New York (Mr. MOYNIHAN) was omitted from cosponsorship of the rape service funding bill. I regret that omission and would like to correct the RECORD to show that, indeed, Senator MOYNIHAN has been a stalwart supporter and cosponsor of S. 621.

AMENDMENTS SUBMITTED FOR PRINTING

CUBAN/HAITIAN ENTRANT ACT OF 1980—S. 3013

AMENDMENT NO. 1962

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to S. 3013, a bill to create a Cuban/Haitian Entrant status, and for other purposes.

(The remarks of Mr. KENNEDY when he submitted the amendment appear earlier in today's proceedings.)

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES—S. 2718

AMENDMENT NO. 1963

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to S. 2718, a bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED AMENDMENTS OF 1980—S. 2708

AMENDMENT NO. 1964

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to S. 2708, a bill to extend title VII of the Comprehensive Employment and Training Act relating to private sector opportunities for the economically disadvantaged, and for other purposes.

DEFINITION OF VIETNAM-ERA VETERAN FOR PURPOSES OF CETA

● Mr. CRANSTON. Mr. President, I submit for printing an amendment to S. 2708, the proposed "Private Sector Opportunities for the Economically Disadvantaged Amendments of 1980" to extend title VII of the Comprehensive Employment and Training Act (CETA), which would amend CETA by modifying the definition of a Vietnam-era veteran in order to remove the age criterion applicable to such definition.

As amended in 1978 by Public Law 95–524, CETA contains a variety of provisions, reflecting the Federal Government's continuing concerns for unemployed and underemployed disabled and Vietnam-era veterans, which are designed to promote maximum job and job training opportunities for such veterans under CETA. Specifically, the Secretary of Labor is required to take appropriate steps to maximize the participation of disabled and Vietnam-era veterans—with special emphasis on those Vietnam-era veterans who served in Southeast Asia—in all activities conducted under CETA. With respect to participation in public service employment programs,

CETA prime sponsors are required to give special consideration to disabled and Vietnam-era veterans. Other provisions woven throughout the CETA authority are similarly designed to insure that the needs of veterans are fully served in this keystone of our Nation's employment and training policies and programs. I will insert these provisions into the RECORD at the conclusion of my remarks.

Under the present provisions of CETA, specifically section 3(31), in order to be considered a Vietnam-era veteran, an individual must have served on active duty at least 180 days, any part of which occurred during the Vietnam era—August 4, 1964, through May 8, 1975—and have been discharged or released from active duty with other than a dishonorable discharge. In addition, the individual must be under 35 years of age. This age criterion was designed—at part of the 1977 amendments to CETA made by section 305 of the Youth Employment and Demonstration Projects Act of 1977 (Public Law 95–22)—in part, to rule out career military personnel who served during the Vietnam era.

Mr. President, the effect of my amendment would be to remove from current law the requirement that in order to be considered a Vietnam-era veteran for CETA purposes, an otherwise eligible individual must be under 35 years of age. In lieu of this requirement, the amendment would require that the individual not have retired from the Armed Forces at the rank of major or above, or its equivalent. This criterion is derived from the approach taken in the Civil Service Reform Act of 1978 (Public Law 95–454), which in section 307(a) used the retirement-related criterion to amend the title 5 civil service law—5 U.S.C. 2108—for the purposes of limiting five-point veterans preference status.

The purpose of this proposed modification is to permit CETA to serve the employment needs of many Vietnam-era veterans who are rapidly approaching or have already passed the age of 35. As of September 1979, more than 2.6 million of the almost 9 million individuals who served during the Vietnam era were 35 years of age or older. The average age of Vietnam-era veterans was 32.9 years at the end of fiscal year 1979. Many of those at or past the cutoff age are those who actually served in Indochina and saw combat. Although these veterans are not experiencing the severe rates of unemployment experienced by younger veterans—in June, the rate of unemployment for Vietnam-era veterans ages 35 to 39 was 4.9 percent—there are still many whose employment-related needs could be served by the veteran-related provisions of CETA.

It should be noted, Mr. President, that all veterans not meeting the definition of disabled or Vietnam-era veteran are not ineligible for CETA; such veterans may and, indeed, do participate in CETA programs currently, but do not receive the special emphasis mandated for disabled and Vietnam-era veterans. Further, status as a disabled or Vietnam-era veteran does not insure eligibility for CETA; the eligibility requirements of the act—such as length of unemployment and income limitations—must still be met.

Mr. President, this amendment is the third prong of my efforts to develop standardized definitions for employment-related purposes for Vietnam-era veterans. Under current law, there are more than a dozen different categories of veterans for various employment-related programs. The programmatic complexity of administering employment initiatives and the confusion both of the veteran and the service provider prevent the provision of maximum effective assistance.

In January, I offered an amendment to the proposed GI Bill Amendments Act of 1980, which would modify the definition of Vietnam-era veteran for the purposes of employment assistance under chapters 41 (job counseling, training, and placement service for veterans) and 42 (employment and training of disabled and Vietnam-era veterans) of title 38. The Senate passed this amendment as part of S. 870/H.R. 5288 on January 24. That approach would define a Vietnam-era veteran as an individual with qualifying service during the Vietnam era who is generally within 12 years of discharge or release from active duty—or within 2 years of the expiration of the individual's delimiting period for educational assistance under the GI bill—and who was not retired from the Armed Forces at the rank of major or above, or its equivalent.

On June 17, joined by Senator MATSUNAGA, I introduced S. 2838, a bill which would make modifications in the definition of an economically disadvantaged Vietnam-era veteran for the purposes of the targeted jobs tax credit (TJTC) authorized by section 51 of the Internal Revenue Code as amended by section 321 of the Revenue Act of 1978 (Public Law 95–600). The substantive effect of S. 2838 would be to remove from current law the requirement that in order to be considered an economically disadvantaged Vietnam-era veteran for the purposes of the TJTC, an otherwise eligible individual must be under 35 years of age. In lieu of this requirement, S. 2838—just as does the amendment I am introducing today—would require that the individual not have retired from the Armed Forces at the rank of major or above, or its equivalent. This measure is now pending before the Finance Committee and I hope action will be taken on it soon.

Mr. President, I hope that the Senate will support my amendment at the appropriate time and that this final portion of efforts to standardize the Vietnam-era veteran definition so as to facilitate implementation of employment assistance provisions designed to meet the needs of veterans will be enacted.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point, preceded by a cordon rule showing the changes to be made in CETA in section 3(31) and the text of the other provisions of CETA making reference to Vietnam-era veterans.

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

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Changes proposed to be made in existing law by Amendment No. 1964 to S. 2708

* * * * *

SEC. 3. As used in this Act—

* * * * *

(31) The term "Vietnam-era [veterans] *veteran* means [those veterans defined in] *any person who meets the requirements of* section 2011(2)(A) of title 38, United States Code, [who are under 35 years of age] *and (B) is not retired from the Armed Forces at the rank of major or above, or its equivalent.*

* * * * *

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

* * * * *

TITLE I—ADMINISTRATIVE PROVISIONS

* * * * *

COMPREHENSIVE EMPLOYMENT AND TRAININNG PLAN

* * * * *

SEC. 103.

* * * * *

(b) To receive funds for any fiscal year, a prime sponsor shall submit an annual plan, which shall include—

* * * * *

(3) a description of specific services for individuals who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skill development, have limited English-speaking ability, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public-assistance recipients, are 55 years of age or older, are youth, are single parents, are women, or are other individuals who the Secretary determines have particular disadvantages in the labor market;

(4) a description of the services to be provided, the prime sponsor's performance and placement goals (including such goals as may be established with respect to the groups identified in paragraphs (2) and (3)), and the relationship of such goals to the Secretary's performance standards;

* * * * *

CONDITIONS APPLICABLE TO ALL PROGRAMS

SEC. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

* * * * *

(b)

* * * * *

(2)(A) The Secretary shall take appropriate steps to provide for the increased participation of qualified disabled and Vietnam-era veterans (with special emphasis on those who served in the Armed Forces in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in public service employment programs and job training opportunities supported under this Act, but nothing in this Act shall authorize the Secretary to establish a hiring or participation goal for such veterans. In carrying out this paragraph, the Secretary shall consult with and solicit the cooperation of the Administrator of Veterans' Affairs. Such steps shall include employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and employment needs of veterans.

(B) Special efforts shall be made to acquaint such veterans with the employment and training opportunities available under this Act, and to coordinate efforts in behalf

of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations.

(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

* * * * *

SPECIAL CONDITIONS APPLICABLE TO PUBLIC SERVICE EMPLOYMENT

SEC. 122. Except as otherwise provided, the following conditions shall apply to all public service employment programs receiving financial assistance under this Act:

* * * * *

(b)

* * * * *

(2) Special consideration shall be given to eligible disabled and Vietnam-era veterans (with special emphasis on those who served in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in accordance with procedures established by the Secretary, and special attention shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

* * * * *

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

* * * * *

VETERANS INFORMATION AND OUTREACH

SEC. 305. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

* * * * *

AMENDMENT NO. 1964

Add at the end thereof the following new section:

SEC. 4. Section 3(31) of the Comprehensive Employment and Training Act is amended to read as follows:

"(31) The term 'Vietnam-era veteran' means any person who (A) meets the requirements of section 2011(2)(A) of title 38, United States Code, and (B) is not retired from the Armed Forces at the rank of major or above, or its equivalent.".●

ENVIRONMENTAL EMERGENCY RESPONSE ACT—S. 1480

AMENDMENT NO. 1965

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1980

● Mr. GRAVEL. Mr. President, I am submitting for printing an amendment to S. 1480, the Environmental Emergency Response Act, called the Oil Pollution Liability and Compensation Act of 1980. This provision creates a Federal trust fund for the payment of claims due to oil spills supported by a tax on oil produced or consumed in the United States.

This measure will help to protect the valuable fisheries resources of the United States. Money in the fund is to be used, in part, for the restoration, rehabilitation and replacement of natural resources injured or destroyed by oil spills. These funds can be used to replace natural resources destroyed by oil spills regardless of whether they are privately owned, or administered by State or Federal agencies.

Fisheries are one of America's most important natural resources and Alaska is one of America's most important fisheries. This amendment addresses a problem which we have experienced in Alaska, but which is not unique to my State. In the past year several oil spills and one near disaster have occurred in Alaska. In the Pribilof Islands a foreign fishing vessel went aground spilling considerable quantities of oil into the Bering Sea. In Southeastern Alaska the 741-foot ore freighter, *Lee Wang Zin*, tore its hull open and the resulting spill traveled over 100 miles along the Alaska coast. On January 17, 1980, the oil tanker *Prince William Sound* lost power carrying 42 million gallons of oil and drifted with the winds and tide for 16 hours. Only the chance regaining of power averted a major oil spill disaster in one of America's best fisheries.

These and other similar incidents point out the need for a fund to pay for cleanup costs and from which the victims of oil pollution can be compensated and from which fisheries can be rehabilitated if damaged by oil spills. Compensation and rehabilitation must occur regardless of whether or not the spiller is financially solvent or can even be determined. We must not let our national appetite for crude oil put at risk renewable resources upon which we depend for jobs, income and food.

The amendment establishes liability for oil spills and provides that cleanup costs may be paid from the fund. It also provides compensation to fishermen and others affected by oil spills for personal injuries, loss of or damage to property and loss of income. It requires rapid response to claims by spillers and allows recovery from the fund for all damage if the spiller fails to pay claims quickly, or if the spiller is undetermined.

But, cleanup and compensation are not sufficient to adequately protect America's fisheries resources. Therefore, the amendment provides that up to $10 million per year from the fund may be used for research into new methods of preventing oil spills, dealing with spills which have occurred, and assessing both long and short term damages from spills. Hopefully, the results of this research will decrease the likelihood of oil spills and the damage which occurs in the event of a spill.

The most important aspect to this bill from a national viewpoint is the provision of funds for the restoration, rehabilitation and replacement of natural resources damaged or destroyed by an oil spill. All too often fisheries resources are put at risk through oil spills without any person being financially responsible for the rehabilitation or replacement of those resources which are injured or destroyed.

Many times Federal agencies or States having management responsibility for these resources do not have available funds sufficient to rehabilitate and restore the fisheries resources. In such a case the resource is permanently damaged or lost to future generations of fishermen and consumers. Even where public agencies may have funds available for the rehabilitation and restoration of natural resources damaged by oil spills, it is more appropriate for these costs to be charged to the consumers of oil transported through American waters than to the public at large. Thus, the amendment allocates revenues from a minimal tax on oil, in part, to the rehabilitation, restoration and replacement of natural resources damaged or destroyed by an oil spill.

Mr. President, in order to more fully inform my colleagues and the public regarding the details of this amendment I ask unanimous consent that it be printed in the RECORD and that an additional 50 copies be printed so that it may be widely distributed for comment and suggestions prior to its being offered at such time as S. 1480 should come to the floor of the Senate for consideration. I would encourage my colleagues and others to review this amendment, and I would welcome any suggestions which would help to improve its operation.

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

AMENDMENT NO. 1965

At the end of the bill add the following:

TITLE II

This title may be cited as the "Oil Pollution Liability and Compensation Act of 1980."

DEFINITIONS

SEC. 2. (a) For the purposes of this title—

(1) the terms "oil", "discharge", "vessel", "public vessel", "United States", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", and "barrel" shall have the meaning provided in section 311(a) of the Clean Water Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "affiliated" means a relationship between two or more persons in which a person has an ownership interest, whether direct or indirect, in another person or persons, is owned directly or indirectly in whole or in part by or is held directly or indirectly under common control with, another person;

(4) the term "claim" means a request, made in writing for a sum certain, for com-

pensation for damages or removal costs resulting from a discharge of oil;

(5) the term "claimant" means any person who presents a claim for compensation under this title;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 3(a)(2) of this title;

(7) the term "Fund" means the Oil Spill Liability Fund established under section 4 of this title;

(8) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this title or section 311(p) of the Clean Water Act;

(9) the term "natural resources" includes land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(10) the term "owner or operator" means any person operating a vessel or facility or holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either singly or in combination with others) without participating in the management or operation of a vessel or facility, leases or charters to any other person with whom such person is not otherwise affiliated, or holds such title or indicia of ownership primarily to protect a security interest in, the vessel or facility, and, in the case of any abandoned vessel or facility, the owner or operator of such a vessel or facility immediately prior to its abandonment.

(11) the term "refinery" means any facility at which oil is refined.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

SEC. 3. (a) Except where an owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by (i) an act of God, (ii) an act of war, civil war, insurrection, or terrorism, (iii) an act or omission by a person other than the owner or operator, an employee or agent of the owner or operator, or a person acting in a contractual relationship under the direction of the owner or operator, or (iv) an act or omission undertaken at the direction of Federal or State authorities, and notwithstanding liability imposed by any other rule or provision of law, such owner or operator of a vessel or an onshore or offshore facility from which oil is discharged in violation of section 311(b)(3) of the Clean Water Act shall be liable for—

(1)(A) all reasonable costs of removal incurred by the United States Government or a State under subsection (c), (d), (e), (b)(2)(B)(v), or (f)(4) of section 311 of the Clean Water Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other reasonable costs or expenses incurred by any person to remove oil as the terms "remove" or "removal" are defined in section 311(a)(8) of the Clean Water Act; and

(2) all damages resulting from such a discharge including, but not limited to:

(A) any personal injury;

(B) any injury to or destruction of any real or personal property;

(C) any loss of use of real or personal property;

(D) any injury to or destruction of natural resources, not limited to amounts which can be used to restore or replace such resources, including the reasonable costs of assessing such injury or destruction;

(E) any loss of use of any natural resources;

(F) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources; and,

(G) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof.

(3) for purposes of this section a discharge of oil into or upon the territorial sea, international waters, or adjacent shoreline of a foreign nation shall be deemed a discharge in violation of section 311(b)(3) of the Clean Water Act.

(b) Claims authorized under subsection (a) may be asserted—

(1) under paragraph (1), by any claimant, provided that the owner or operator of a vessel or facility from which a discharge occurs may assert such a claim only if such owner or operator is entitled to a defense to liability under subsection 3(a) or such owner or operator incurs liability in excess of the limits set forth in subparagraph 3(d);

(2) under subparagraph (A) of paragraph (2) any claimant suffering personal injury;

(3) under subparagraph (B), (C), and (E) of paragraph (2) by any claimant if the property destroyed or injured is owned or leased by the claimant, or the property or natural resources the use of which is lost is utilized by the claimant;

(4) under subparagraph (D) of paragraph (2), by the President as trustee for natural resources over which the United States has sovereign rights or exercises exclusive management authority, and by any State for natural resources within or adjacent to such State and owned, managed, or controlled by such State;

(5) under subparagraph (F) of paragraph (2), by any claimant deriving earnings from activities which utilize the property or natural resources;

(6) under subparagraph (G) of paragraph (2) by the United States and any State or political subdivision thereof;

(7) by a claimant residing in a foreign country, or the government of a foreign country or any agency or political subdivision thereof if—

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

(B) the oil was discharged from—

(1) a facility located in the United States or subject to the jurisdiction of the United States;

(2) a vessel into the navigable waters of the United States; or,

(3) a vessel carrying oil as cargo between two ports subjects to the jurisdiction of the United States; and,

(C) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: *Provided, however,* That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port.

(c) This section shall in no way affect or reduce the rights of subrogation which (1) the owner or operator of a vessel or facility, (2) the United States, (3) any State, or (4) any person may have against any person whose acts may have caused or contributed to a discharge.

(d)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section, and inclusive of the limits of liability established under section 311(f) of the Clean Water Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil in bulk or in commercial quantities as cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel); or

(E) $50,000,000 for any other onshore or offshore facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel of an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs but not including any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil was the result of willful misconduct or negligence within the privity and knowledge of the owner or operator or of a violation (within the privity and knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Clean Water Act.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the exceptions or defenses of subsection (a) of this section, all reasonable costs of removal incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act or a vessel carrying oil as cargo from such a facility shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(e) The President may establish by regulation, with respect to any class or category of onshore or offshore facility subject to subsection (d)(1)(E) of this section, a maximum limit of liability under this section of less than $50,000,000.

(f) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Clean Water Act and as provided under section 27 of this title notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

OIL SPILL LIABALITY FUND

SEC. 4. (a) There is hereby established in the Treasury of the United States the Oil Spill Liability Fund. The Fund shall be administered by the Secertary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(b) THE FUND SHALL BE CONSTITUTED FROM—

(1) all taxes collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 5;

(3) all moneys recovered or collected on behalf of the Fund under this title, including the interest on the investment of Fund assets; and,

(4) any penalties imposed under section 311 of the Federal Water Pollution Control Act (insofar as it relates to oil).

(c) MANAGEMENT OF THE FUND.—The Secretary of the Treasury shall—

(1) transfer at least monthly from the general fund of the Treasury to the Fund the amounts appropriated by subsection (b) on the basis of his estimate of such amounts

and make adjustments in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred;

(2) make payments from the Fund as authorized by this title, appropriations acts, and the Fund Administrator; and,

(3) invest such portion of the Fund as is not required to meet current withdrawals in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary.

(d) The Internal Revenue Code of 1954 is amended by adding the following new sections:

(1) SEC. 4611. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax of 0.8 cents a barrel on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) SURTAX AND REMISSION.—If on September 30 of any year, the Secretary of the Treasury determines that

(1) the balance of the Fund is $150,000,000 or less then beginning with the receipt of oil on January 1 of the following year the rate of tax shall increase to 1.6 cents per barrel until the end of the fiscal year of the United States during which such January 1 falls; or

(2) the balance of the Fund is $200,000,000 or more then beginning with the receipt of oil on January 1 of the following year the rate of tax shall be reduced to zero until the end of the fiscal year of the United States during which such January 1 falls;

(3) in order to retire within the next succeeding fiscal year obligations of the Fund purchased by the Secretary of the Treasury a tax in excess of that imposed by subparagraph (1) is required, a surtax, not to exceed 1.4 cents per barrel, shall be imposed in an amount determined by the Secretary of the Treasury to be sufficient to retire the debt of the Fund, beginning with receipt of oil on January 1 of the following year until the end of the fiscal year of the United States during which such January 1 falls.

(c) TAX ON CERTAIN USES AND EXPORTATION.—

(1) IN GENERAL.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a) and (b), then such oil shall, at the time of such use or exportation be deemed crude oil received at a United States refinery.

(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to crude oil used for extracting oil or natural gas on the premises where such crude oil was produced.

(d) PERSONS LIABLE FOR TAX.—

(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsections (a)(1) and (b) shall be paid by the operator of the United States refinery.

(2) IMPORTED PETROLEUM PRODUCTS.—The tax imposed by subsections (a)(2) and (b) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (c) shall be paid by the person using or exporting the crude oil, as the case may be.

(2) SEC. 4612. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subchapter—

(1) CRUDE OIL.—The term "crude oil" includes crude oil condensates and natural gasoline.

(2) DOMESTIC CRUDE OIL.—The term "domestic crude oil" means any crude oil produced from a well located in the United States.

(3) PETROLEUM PRODUCT.—The term "petroleum product" includes crude oil.

(4) UNITED STATES.—

(A) IN GENERAL.—The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) UNITED STATES INCLUDES CONTINENTAL SHELF AREAS.—The principles of section 638 shall apply for purposes of the term "United States".

(C) UNITED STATES INCLUDES FOREIGN TRADE ZONES.—The term "United States" includes any foreign trade zone of the United States.

(5) UNITED STATES REFINERY.—The term "United States refinery" means any facility in the United States at which crude oil is refined.

(6) REFINERIES WHICH PRODUCE NATURAL GASOLINE.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) PREMISES.—The term "premises" has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) BARREL.—The term "barrel" means 42 United States gallons.

(9) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) ONLY 1 TAX IMPOSED WITH RESPECT TO ANY PRODUCT.—No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

(e) If at any time the moneys in the Fund are insufficient to meet the obligations of the Fund the Secretary of the Treasury may purchase from the Fund notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to the terms and conditions as may be prescribed by the Secretary of the Treasury in amounts not in excess of that which the Secretary of the Treasury determines can reasonably be repaid from amounts received under paragraph (d) of this section and,

(1) the Secretary of the Treasury is authorized, for the purchase of notes or other obligations issued under this subsection, to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the proceeds for which securities may be issued under that Act are extended to include any purchase of these notes or obligations;

(2) the Secretary of the Treasury may at any time sell or otherwise dispose of any notes or other obligations acquired under this subsection and all redemptions, purchases and sales by the Secretary of the Treasury of these notes or other obligations shall be deemed public debt transactions of the United States.

(3) nothing in this subsection or this title shall be construed to create any entitlement in any claimant nor any obligation in the fund to borrow or the Secretary of the Treasury to lend any funds from the general fund of the Treasury for any payment authorized or required by this title.

USE OF THE LIABILITY FUND

SEC. 5. (a) The Fund administrator shall authorize payment of money from the Fund for the following purposes:

(1) payment of any claim for damages provided under section 3;

(2) payment of all reasonable removal costs or expenses and other reasonable costs of carrying out the national contingency plan established under section 311(c) of the Clean Water Act, including reasonable removal costs incurred by any person and approved under such national contingency plan;

(3) subject to such amounts as are provided by appropriation, payment of the reasonable cost of assessing both short and long term injury to, destruction of, any publicly owned or controlled natural resources resulting from a discharge of oil, *Provided however*, That amounts not in excess of $1,000,000 per year shall be available from the Fund for emergency assessment of injury to, destruction or loss of any publicly owned or controlled natural resources resulting from a discharge of oil.

(4) payment of the costs of reasonable expenditures of Federal or State governments for the restoration, rehabilitation, and replacement of publicly owned or controlled natural resources injured or destroyed as a result of any discharge of oil or the acquiring of equivalent natural resources.

(5) reimbursement to any State for the payment of any claims for costs of removal or damages payable under this Act which such State has paid with funds under the control of such State pursuant to the national contingency plan and a contract under subsection (b) of this section;

(6) subject to such amounts as are provided by appropriation not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this title and section 311 of the Clean Water Act, to be performed by Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration. Such research shall include, but not be limited to (A) development and refinement of protocols to determine the type and extent of short and long term injury or destruction of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or destroyed resources, (C) laboratory or field research on the effects of oil on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations. Responsibility under the preceding sentence shall be assigned in accordance with the assessment responsibilities established under subsection (h)(2) of this section and officials responsible for such assessments shall be consulted before proposal of any research plan or appropriation request under the preceding sentence; and

(7) subject to such amounts as are provided by appropriation, the reasonable administrative and personnel costs of administering the Fund and this title.

(b) The President shall designate a Fund Administrator who shall have authority to obligate money in the Fund, to administer the Fund in accordance with the provisions of this title, and to promulgate reasonable regulations for the presentation, filing, settlement, and adjudication of claims compensable under this title. The Fund Administrator may delegate his authority to obligate money in the Fund or to settle claims to one or more Federal officials and to officials of a State with an adequate program operating under a contract with the Federal government.

(c) The owner and operator of any vessel or facility from which oil has been discharged shall provide reasonable public notice of the rights of potential injured parties and if the source of the discharge is a public vessel, a matter of dispute or undetermined the Fund Administrator shall provide reasonable public notice of the procedures by which claims may be presented to the Fund.

(d) Any person with a claim authorized by section 3 (a) and (b) shall present such

claim to the owner or operator of the vessel, or onshore or offshore facility from which oil has been discharged if such owner or operator can be determined and, if when such claim has not been satisfied within ten days the claimant may commence an action against such owner or operator or present the claim to the Fund for payment in accordance with the reasonable rules and procedures established by the Fund Administrator.

(1) Claims less than $10,000 presented to the Fund shall be determined and paid within 90 days of the date the claim was first made.

(2) No claim may be presented nor may an action be commenced for damages under this title unless that claim is presented or action commenced by the earlier of a date three years from the date of discovery of the loss or ten years from the date of the discharge.

(3) The Fund shall not pay any claim for costs of removal or damages to the extent that the discharge was caused by the negligence or misconduct of the claimant or to the extent that the claimant failed to take reasonable steps, under the facts and circumstances, to mitigate the damages caused the claimant by such discharge.

(e)(1) Except as provided in subparagraph (2), the Fund Administrator shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) upon a determination by the Fund Administrator that advertising is not reasonably practicable. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Fund Administrator.

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

(iii) Without regard to subsection (b) of section 556 of title 5, United States Code, the Fund Administrator is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes regarding certifications, denials, or benefits which are filed by claimants. Panel members may be appointed from the private sector or from any Federal agency except the staff administering the fund. Each panel member appointed from the private sector shall receive a per diem compensation, and each panel member shall receive necessary travel and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from the private sector.

(f)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this title to any claimant for damages or costs of removal resulting from a discharge of oil shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this title or any other law.

(g) The Fund Administrator shall bring an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this title subject to the limitations on liability provided in Section 3(c) and in addition thereto all reasonable costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator or other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(1) In addition to defenses otherwise available the owner or operator against whom an action is brought may raise as a defense the reasonableness of claims paid for cleanup costs and the amount of damages paid by the Fund to any claimant.

(2) If, in an action to recover amounts paid by the Fund, a final determination is made that any claimant was paid amounts $10,000 or more in excess of reasonable cleanup costs or actual damages the Fund Administrator shall commence an action on behalf of the Fund to recover such excess costs or damages.

(h)(1)(A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Director of the Fish and Wildlife Service, not later than two years after the enactment of this title, shall promulgate reasonable regulations for the assessment of damages for injury to or destruction of natural resources resulting from a discharge of oil, for the purpose of section 3(a)(2)(D) and (E) of this Act, section 5(a)(6) of this Act, and section 311(f)(4) and (5) of the Clean Water Act.

(B) Such regulations shall specify (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of affected area, and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury or destruction. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(2) In accordance with such regulations, damages for, injury to, or destruction of natural resources resulting from a discharge of oil, for the purposes of section 3(a)(2)(D) and (E) and section 5(a)(1) of this title and section 311(f)(4) and (5) of the Clean Water Act, shall be assessed by (A) the Director of the Fish and Wildlife Service for living natural resources and their supporting ecosystems over which such Service has management or conservation authority, (B) the Administrator of the National Oceanic and Atmospheric Administration for other natural resources in the marine environment beyond the baseline of the territorial sea, and (C) the Administrator of the Environmental Protection Agency for all natural resources. Such officials shall act for the President as trustee under section 3(b) of this title and section 311(f)(5) of the Clean Water Act.

(i) Except in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action, funds may not be used under this title for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by, or appertaining to such State, after adequate public notice and opportunity for hearing and consideration of all public comment.

(g) The Controller General shall audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered and shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund and shall thereafter provide such auditing of the Fund as is appropriate.

FINANCIAL RESPONSIBILITY

SEC. 6. (a)(1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil as cargo or fuel) using any port or place in the United States or the navigable water or any offshore facility shall establish and maintain in accordance with section 311(p) of the Clean Water Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subject under section 3(d)(1) of this Act. The provisions of paragraphs (3), (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This section shall take effect May 1, 1981.

(2) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil carried as cargo.

(b)(1) The owner or operator of any offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subject under section 3(d)(1) of this Act or $50,000,000, whichever is less. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Clean Water Act.

(2) The owner or operator of any offshore facility subject to this subsection who fails to comply with this section or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

STATE LAWS AND PROGRAMS

SEC. 7. (a) States are hereby precluded from

(1) the imposition of excise taxes or fees upon oil for purposes of financing activities related to the cleanup of discharges and the payment of damages caused by discharges, and

(2) the imposition of liability for discharges in excess of the limits provided under this title.

(b) Any person who receives compensation for removal costs or damages pursuant to this title shall be precluded from recovering compensation for the same removal costs or damages pursuant to any other State or Federal law. Any person who receives compensation for removal costs or damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same removal costs or damages as provided in this title.

CONFORMING AMENDMENTS

SEC. 8. (a) Review of any regulation promulgated under this title may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia.

(b) Except as provided in subsection (a) of this section, the United States district court shall have exclusive original jurisdic-

tion over all controversies arising under this title without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or release or damages occurred, or in which the defendant resides, may be found, or does business.

(c) No provision of this title shall be deemed or held to moot any litigation concerning any discharge or any damages associated therewtih, commenced prior to enactment of this title.

(b) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska,"

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline," and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability Fund and Compensation Act of 1980."

(2)(A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Fund established by section 4 of this Act. The Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)), and shall assume all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund other than the liability of those officers or trustees for gross negligence or willful misconduct.

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to subparagraph (D) of this paragraph the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the tax due under section 4(d) of this title on barrels of oil, and the Secretary of the Treasury shall waive such tax until such time as the total amount of the tax so waived equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified: *Provided*, That, should the tax due under section 4(d) of this title be no longer required whereby the assets transferred and remaining can no longer be used as an advance payment at the end of the second year of the Fund then the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis to the owners of the oil at the time it was loaded on the vessel; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the tax imposed under section 4 on barrels of oil until such time as the total amount of the 2 cent per barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary of the Treasury directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(D) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this title paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under subparagraph (B)(i) of this paragraph for the collection or payment of tax established under section 4(d) of this title, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of tax waived. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time the collection of payment of tax under section 4(d) of this title is waived.

(E) For purposes of paragraph (B), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by this paragraph, be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The Fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980 shall be available to the Secretary for actions taken under section 5 of this Act."

(c) CLEAN WATER ACT.—Section 311 of the Clean Water Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Oil Pollution Liability and Compensation Act of 1980,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Oil Pollution Liability and Compensation Act of 1980."

(4) One-half of any sums available and uncommitted on the effective date of the Oil Pollution Liability and Compensation Act of 1980 in the Fund established under section (k) of section 311 of the Clean Water Act shall be transferred to the Fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980.

(d) DEEPWATER PORT ACT.—The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18 (1) of this Act," and insert in lieu thereof "section 26 of the Oil Pollution Liability and Compensation Act of 1980,".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n) and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section," and inserting in lieu thereof: "fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980."

(4) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d) respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), (3), respectively.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed.

(f) Any expenditure under section 5(a) of this title, other than those (1) under the authority of section 311(c) of the Clean Water Act involving the balance of the contingency fund established under section 311(p) of the Act and transferred to the Fund under section 28(a)(2) of this title, shall be made after October 1, 1978, for any claim arising before such date and after the date of enactment of this title.

(g) EFFECTIVE DATE.—The provisions of this title shall be effective with respect to discharges which occur after December 23, 1979.●

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold hearings August 19 and 20 on the suspension of U.S. exports of high technology and grain to the Soviet Union. The suspension was announced by President Carter on January 4, 1980, in response to the ruthless Russian invasion of Afghanistan. The President acted under the authority of the Export Administration Act of 1979.

The purposes of the hearing are: First, to review the implementation and effectiveness of the partial export suspension; and second, to receive testimony on S. 2855, a bill to lift the suspension of grain sales.

Large numbers of Soviet troops and tanks invaded Afghanistan the last week of December 1979. As part of the American reply to Russian aggression President Carter suspended delivery of 17 million tons of grain ordered by the Soviet Union and ordered a review of all exports of high technology and other strategic items to the U.S.S.R. The President also temporarily suspended exports of all agricultural commodities and licensing of exports of nonagricultural goods and technology not exportable under general license, pending a thorough review and reconsideration of export control policy concerning the Soviet Union.

Secretary of Commerce Klutznick announced on January 29, 1980, that certain agricultural products unrelated to the Russian feed-livestock complex and which have no strategic significance would be exempt from prior licensing review. Other agricultural products, including wheat, feed grains and seeds, soybeans and animal feeds, meat, poultry, dairy products, and some animal fats were subject to continued prohibition. Products, such as tallow, shrimp, fish and meat extenders, which might be used as feed or meat replacement under extreme circumstances were subjected to case-by-case review.

The export to the U.S.S.R. of phosphate rock and related products was embargoed in February 1980 because fertilizers and animal feed supplements are obtained from phosphate products.

In May Secretary Klutznick announced that the review of high technology exports had been completed, and that more restrictive criteria would be applied to applications for exports of high technology to the Soviet Union.

The United States solicited the cooperation of all allied and friendly countries in implementing export restrictions toward the Soviet Union. Some countries took similar action with respect to their own exports; others agreed not to take actions which would interfere with the effectiveness of the U.S. measures.

The committee hearings will focus on the following questions: First, how effective have the export suspension measures been in imposing costs on the Soviet Union? Second, how much support have other countries given to the U.S. effort to punish Russian aggression? Third, how could the effectiveness of the U.S. actions be increased? Fourth, what effect would termination of the suspension of additional grain sales (beyond the 8 million tons for 1981 agreed to in the 1975 U.S.–U.S.S.R. Agreement) have on U.S. foreign policy, on food prices, and on farm income?

Persons interested in testifying or submitting information to the committee may contact Bob Russell of the committee staff at (202) 224–0819.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources will hold a hearing on several measures affecting the territories of the United States. The measures are:

H.R. 7330. To authorize appropriations for certain insular areas of the United States, and for other purposes.

S. 2735. To provide for tax matching grants to Guam and the Virgin Islands, to authorize technical assistance to the territories, to establish the Commission on Federal Laws in the territories, and for other purposes.

S. 2992. To authorize a study of sail-assisted technology as a means of reducing energy costs for inter-island transportation in the Trust Territory of the Pacific Islands, and for other purposes.

The hearing will be held on August 26, 1980, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building, Washington, D.C.

Anyone wishing to testify or to submit testimony for the record should contact Mr. James Beirne, counsel to the committee, at (202) 224–2564 or write directly to the Committee on Energy and Natural Resources, 3106 Dirksen Senate Office Building, Washington, D.C. 20150.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I would like to announce that the Committee on Labor and Human Resources will hold a hearing on the home energy assistance program on September 11, at 10 a.m. The hearing will be held in room 4232 of the Dirksen Senate Office Building.

This hearing will be the first in a series of hearings that will be held in Washington and in the field by the committee in the anticipation of the reauthorization of this program next year. Announcement of the scheduling of these additional hearings will be made in the near future.

For further information on these hearings, please contact Pat Markey of the committee staff at 224–0326.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. SASSER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations will conduct an oversight hearing on the administration of the Federal Freedom of Information Act on August 19, 1980, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 2279, a bill to authorize the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Commitee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 2926, the Magnetic Fusion Energy Engineering Act.

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

SELECT COMMITTEE ON SMALL BUSINESS

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Select Committee on Small Business be deemed to have had permission to meet during the session of the Senate on August 4 to hold hearings on H.R. 5612, a bill to extend expiring Small Business Administration programs.

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

SUBCOMMITTEE INVESTIGATING ACTIVITIES OF INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee Investigating the Activities of Individuals Representing the Interests of Foreign Governments of the Committee on the Judiciary be authorized to meet during the session of the Senate tomorrow, August 6, 1980, beginning at 10 a.m.

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

ADDITIONAL STATEMENTS

HELEN GAHAGAN DOUGLAS

● Mr. CRANSTON. Mr. President, on June 28, 1980, a great American died, already a legend in our times: Helen Gahagan Douglas. To those of us who had the privilege of knowing her personally, her death is a great loss. We mourn her, not only her fellow Californians but all Americans who love and respect the values she stood for. And she stood for them staunchly through good and bad times in our history, ever firm in her commitment to liberty of thought and action, to truth and to justice.

I believe Helen Gahagan Douglas was one of the grandest, most eloquent, deepest-thinking people we have had in American politics. She stands among the best of our 20th-century leaders, rivaling even Eleanor Roosevelt in stature, compassion, and simple greatness. For those of us who loved her—and there are so many—mere words cannot do justice to the spirit and soul of this woman. But the Sacramento Bee, in a July 2 editorial, pays tribute to Helen Gahagan Douglas in a way which I know will evoke many memories in the hearts of her admirers. I would like to share this tribute with my colleagues here in the Senate:

The editorial follows:

HELEN GAHAGAN DOUGLAS

One of the several faces of courage is just being true to oneself in one's own place and in one's own time. Such was the courage of Helen Gahagan Douglas, the actress-turned-congresswoman whose political career ended in a bitter clash with Richard M. Nixon in 1950. Douglas, actress, singer, wife of actor Melvyn Douglas, political activist, served in the U.S. House of Representatives from California along with Nixon for two terms, 1946–50. She was the Democratic nominee for the U.S. Senate in 1950 and was defeated by Nixon in a campaign that made history for its vicious smear tactics.

It was the time of Korea and McCarthyism, and, despite the charges that she was a Communist sympathizer, Douglas refused to run a campaign based on innuendo and smear. Instead, she emphasized preservation of the 160-acre limit on water from federal reclamation projects, and federal control of California's vast tidelands oil resources. She stuck to the issues despite the personal attacks.

In the best of all possible Americas, Helen Gahagan Douglas might have become an influential and respected U.S. senator. When she died Saturday of cancer in a New York hospital, this country lost a gifted person, a principled advocate of women's rights, civil liberties and world disarmament whose contributions to society were eclipsed by the Cold War controversy and the agonies created by the smash-and-grab politics of the 1950's. She strove for the freedom, justice and equality that never go out of style, and, in her personal relationships, extended a warmth and respect that are no less the mark of a person who cares about others.●

INDUSTRIAL CONSERVATION INCENTIVES

● Mr. PACKWOOD. Mr. President, I would like to call attention to an article which appeared in last Thursday's Wall Street Journal. The article is entitled "Industrial Conservation Incentives," and was written by Robert Stobaugh and Daniel Yergin of Harvard University, co-editors of Energy Future.

The message is clear. Even with decontrol of oil prices, there remain significant financial and institutional biases against investment in energy conservation. Stronger tax incentives, such as higher

tax credits and accelerated depreciation, are needed to deliver the great potential energy savings in the industrial sector. I fully agree with the gentlemen from Harvard, and will continue to push for legislation which encourages businesses, as well as individuals, to invest in our most promising new energy source.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

INDUSTRIAL CONSERVATION INCENTIVES

(By Robert Stobaugh and Daniel Yergin)

For a variety of reasons, a free market has not been used in the United States to achieve an appropriate balance between energy consumption and energy conservation. This will be true even after domestic oil is decontrolled in September. Thus, American industry, as well as other sectors, is subject to a continuing "consumption bias."

This bias has very serious implications for both the individual company and the nation. It means that conservation is not being achieved at anything like an economic rate. In effect, the industrial sector is seriously underinvesting in energy efficiency. As a consequence, both the country and the private concern will be subject to much higher but unnecessary energy costs in the years ahead.

Much greater effort should be put into stimulating conservation investments in the industrial sector, for this sector is capable of achieving substantial conservation savings quickly. Unfortunately, this sector has received little attention from public policymakers.

One reason that the special problems of industry have received relatively little attention is because industry's record is much better than that of other sectors. Between 1973 and 1978, industrial energy use decreased by 12% per unit of output, whereas there was a 1% increase in per capita energy use in the residential and commercial sector.

Some companies have organized themselves to achieve truly outstanding savings—reductions on the order of 30% to 45%. But many potential savings have not been made. Many corporate energy managers believe that with relatively modest efforts, their companies could achieve 20% to 40% reductions in absolute terms—but are not.

MANY BARRIERS

This is not because of lack of desire or interest. Many barriers stand in the way of adequate levels of investment in energy conservation—unclear organizational responsibilities, institutional obstacles to cogeneration and imperfect information. But the most important obstacle is the financial barrier, which has two parts. First, industrial concerns, as well as other consumers, pay subsidized prices for their conventional energy sources. Second, lack of adequate capital retards investment. Thus, the major remedy lies primarily with financial incentives.

First, subsidized prices. Even after oil-price controls end, the cost of oil products will be below the true cost to the nation, for imported oil embodies a number of side-effects that are costly to the nation, but not to the user, at least not at the time when it makes its decision to use oil or invest in efficiency. These costs include the impact of the marginal U.S. oil imports on the world market. If the United States had kept to its 1975 import level of 6 million barrels a day instead of 8.5 million at the beginning of 1979, we might well have not seen prices reach $35 a barrel—with all the inflationary and GNP losses that accompany it. Our belief is that the marginal cost of the extra several million barrels daily of U.S. oil imports was on the order of $60 to $100 a barrel.

How to correct for this gap between $35 a barrel that the user sees and the $60 to $100 the nation pays? One way is a tariff—of 100 percent or more. A response of this sort is a standard solution of economists when the price of imports works against achieving some national goals. But it is unrealistic to expect a tariff of this magnitude to be enacted—and if it were, it would draw dollars away from conservation investments to paying for current energy costs. To say the least, it would have a harsh impact.

Our other energy prices are also subsidized. Natural-gas price controls, of course, will be in existence for "new" gas until 1985, and for "old" gas indefinitely. Consumers of electricity, for instance, pay average costs rather than the marginal costs engendered by new generating capacity. Moreover, there are obvious side-effects in the use of coal and nuclear power that are not included in the market price—hazy skies in the case of coal and fear of a catastrophic accident in the case of nuclear power. The true cost of these to society is hotly debated, but everyone would agree that the result is that energy prices do not give correct information to consumers, and are unlikely to do so.

The financial barrier is also operative within the corporation. Many who say that "industry will take care of itself" are assuming that a corporation is a single rational actor, with a single mind.

On the contrary, a constant competition takes place within a company over the allocation of capital. Companies establish various hurdle rates in order to make those decisions on a rational basis. Conservation investments must often leap over high hurdle rates two- or three-year paybacks. They are not viewed as having the same strategic impact as new product or additional capacity and so they are postponed. Other claimants are also ahead in line, such as mandated environmental expenditures.

Conservation investments do not attain the same level of interest, commitment, and glamour for top management as do investments that lead to increased sales. Also, energy may not be a significant cost to a firm, and so, even if the payback is good, management will choose to put its dollars elsewhere. After all, the company is purchasing average barrels at $35 not marginal barrels at $60 to $100. Finally, high interest rates and economic uncertainty cause management to pare down its list of investments and conservation investments often fall off the bottom.

The result of the financial barrier is that there is a very large backlog of highly desirable energy-conservation investments that would benefit both industry and the nation—that could perhaps lead to a 20% to 30% absolute reduction in energy use in the industrial sector. Assuming some modicum of economic stability, many of these investments will eventually be made. But they are much more valuable to the nation if done in 1981 rather than in 1986.

TAX CREDITS REQUIRED

Tax or other policies that promote investment in new facilities will speed up energy conservation. Rapid depreciation policies for new facilities could substantially accelerate efficiency. The 1978 National Energy Act provided a limited 10% credit for conservation investments. But, given the financial hurdle, this credit seems much too low. Significantly greater tax credits, up to 40%, plus accelerated depreciation or direct financial payments, are required. In addition, energy-conservation loans and grants for small businesses, which are often cash-strapped, are needed.

Industry executives freely acknowledge that there are many energy-saving innovations in which they could be investing, but are not because of other more urgent claims on capital. One company, for example, was considering a $500,000 investment that could lead to a 40% reduction in energy use—for a 1.5-year payback. It made this investment in its Belgian factory because of the incentives provided by the Belgian government. It did not in its similar American factory because other claims on capital were ahead in line.

Unless adequate incentives are provided to overcome the barriers to investments in more efficient use of energy, the U.S. will be faced with a vicious circle. The recessions resulting from higher world oil prices will retard investment in more efficient plants, thereby slowing energy conservation over the longer term, so that at any given level of economic output there is greater pressure on energy supplies.

There is an alternative: more efficient energy use and the benefits that go with it—to greater economic output, more stability, reduction in the alarmingly large and potentially larger dependence on OPEC oil, a cleaner environment, less tension with our allies and a stronger dollar. By refusing to take sensible policy steps, we foolishly deny ourselves these benefits.

(NOTE.—Robert Stobaugh and Daniel Yergin are co-editors of "Energy Future: Report of the Energy Project at the Harvard Business School." Mr. Stobaugh is professor of business administration at the Harvard Business School and director of the project. Mr. Yergin is a lecturer at the Kennedy School of Government at Harvard and is editor of "The Dependence Dilemma: Gasoline Consumption and America's Security.") ●

ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS

● Mr. CULVER. Mr. President, it has been the practice in recent years to place in the CONGRESSIONAL RECORD an accounting of all funds spent for research and development on chemical and biological warfare, both offensive and defensive. I think this is a useful practice because it informs the public and our allies of the extent and nature of our work in these areas. All of us hope the day will come when these types of weapons will not be in the inventory of any nation; however, we are not there yet and so we must take some steps to protect ourselves. However, given some of the practices in the past involving chemical and biological agents, I think it is useful to inform the American public to the widest extent possible of what their country is doing in this area. Therefore, Mr. President, I ask that the report on funds obligated during fiscal year 1979 by the Department of Defense for chemical warfare and biological defense research programs be entered into the RECORD.

The report follows:

THE UNDER SECRETARY OF DEFENSE,
Washington, D.C., January 29, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with the requirements of 50 U.S.C. § 1511 (1976), the report on funds obligated in the chemical warfare and biological defense research programs during FY 1979 is enclosed.

The report provides actual obligations through 30 September 1979.

Section 4 of the Army report provides an adjustment summary that reflects changes to the FY 1978 report to permit the revision of estimated obligations to actual. The Departments of the Navy and Air Force reported no adjustments to their segments of the FY 1978 report.

The enclosed report also has been sent to the Speaker of the House of Representatives.

Sincerely,

WILLIAM J. PERRY.

DEPARTMENT OF DEFENSE—ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), NOV. 30, 1979

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animal Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

DEPARTMENT OF DEFENSE ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, RCS DD-D.R. & E. (SA) 1065

[Actual dollars]

	Army	Navy and Marine Corps	Air Force	Tota
Chemical warfare program	$62, 414, 000	$1, 599, 000	$17, 179, 000	$81, 192, 000
R.D.T. & E	36, 416, 000	1, 599, 000	4, 238, 000	42, 253, 000
Procurement	25, 998, 000	0	12, 941, 000	38, 939, 000
Biological research program	16, 495, 000	0	0	16, 495, 000
R.D.T. & E	16, 495, 000	0	0	16, 495, 000
Procurement	0	0	0	0
Ordnance program	35, 894, 000	1, 700, 000	114, 000	37, 708, 000
R.D.T. & E	8, 609, 000	1, 700, 000	114, 000	10, 423, 000
Procurement	27, 285, 000	0	0	27, 285, 000
Total program	114, 803, 000	3, 299, 000	17, 293, 000	135, 395, 000
R.D.T. & E	61, 520, 000	3, 299, 000	4, 352, 000	69, 171, 00
Procurement	53, 283, 000	0	12, 941, 000	66, 224, 00

DEPARTMENT OF THE ARMY ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), RCS DD-D.R. & E. (SA) 1065

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars) Prior year Current fiscal year	In-house Contract	Explanation of obligation
Chemical warfare program	3. 101	23. 712	During the fiscal year 1979, the Department of the Army obligated $36,416,000 for general research investigations, development, and test of chemical warfare agents, weapons systems, and defensive equipment. Program areas of effort concerned with the obligations are as follows:
	33. 315	12. 704	Chemical research:
			Basic research $850, 000
			Exploratory research 4, 155, 000
			Engineering research 775, 000
			Total chemical research 5, 780, 000
			Lethal chemical program:
			Exploratory development 948, 000
			Advanced development 155, 000
			Engineering development 891, 000
			Testing 187, 000
			Total lethal chemical 2, 181, 000
			Incapacitating chemical program:
			Exploratory development 100, 000
			Advanced development 0
			Engineering development 0
			Testing 0
			Total incapacitating chemical 100, 000
			Defensive equipment program:
			Exploratory development 14, 871, 000
			Advanced development 5, 707, 000
			Engineering development 7, 117, 000
			Testing 10, 000
			Total defensive equipment 27, 705, 000
			Simulant test support 650, 000
1. Chemical research	.000	5, 196	
	5. 780	. 584	
(a) Basic research	(. 000)	(. 685)	Basic research in support of chemical materiel:
	(. 850)	(. 165)	The objectives of this research are to provide a science base in support of: (1) Chemical defense systems including decontamination and contamination avoidance, detection and identification, physical protection, chemical training agents and simulants, analytical methodology, and chemical materiel vulnerability, and (2) chemical deterrent systems to include state-of-the-art advances in chemistry, physics, and engineering sciences. Information and concepts are sought in areas dealing with chemical agent dissemination, chemical munition breakup, factors controlling chemical agent activity, and new directions in chemical agents.
			In the area of chemical defense (1) novel instrumentation was developed that allows the monitoring of the decomposition of liquids during heating. A study was completed on use of pattern recognition for correlating the structures of several classes of compounds with their pharmacological activity. This has application to identification of chemical threats. In the area of chemical deterrence (2) research was completed on several aspects of the behavior and properties of thickened chemical agents, including the control of liquid breakup and evaporation of droplets.
			In fiscal year 1980, emphasis will be on defensive research relating to decontamination and contamination avoidance; e.g., the use of lasers for decontamination, the reactivity of toxic molecules in various detergent solutions, and the interaction of liquid jets and sprays with supported films.
			Chemical deterrence research will include study of (1) factors controlling the activity of chemical agents, and (2) fundamental physical properties of chemical agents which influence the rheological behavior of thickened agent solutions.
(b) General chemical investigations.	(. 000)	(4. 511)	Exploratory development effort:
	(4. 930)	(. 419)	Chemistry of threat agents and chemical technology:
			The objectives of this effort are to identify, synthesize, and study the properties o fchemical compounds posing a potential threat to the U.S. chemical defensive posture; and to maintain an up-to-date technology in chemometrics, analytical, organic and physical chemistry in support of chemical defensive investigations.

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
			Laboratory research of novel compounds led to the preparation of a new organophosphorus compound for use as a potential threat agent. Conducted chemical process studies on routes to synthesize laboratory quantities of a classified intermediate to a potential threat agent. Toxicity screening studies led to the discovery of 2 classes of organophosphorus compounds. These will be investigated further relative to chemical defense threat. Completed a special inhalation study of EA 4923, a volatile irritant with laboratory animals.
			Studies to develop improved screening techniques that are more predictable during the initial pharmacological tests included: A new method for the identification and ranking respiratory irritants.
			Over 150 chemical structures were identified and characterized resulting in recommending a series of compounds for laboratory synthesis and toxicity screening.
			Developed a new analytical chemistry technique utilizing laser infrared spectroscopy and capillary gas chromatography. Expanded the data base in computer searchable mass spectra.
			In the area of physical chemical procedures a vapor pressure measurement apparatus was updated and successfully characterized potential threat agents. Computer software was established for a chemical agent physical property data system.
			Completed an experimental design applicable to the jet decontamination of surfaces. Developed a successful method of estimating the mass median diameter for a cloud of particles.
			Future efforts to be conducted will result in publications and reports. These include but are not limited to reports on: (a) Summary of organic synthesis research, (b) chemometric computer models of chemical structures, (c) statistical methodology relative to chemical defense mission needs, and (d) development of modern methods of chemical analysis and physical chemical procedures.
			Toxicological effects of threat agents and chemicals of mission interest:
			The objective of this effort is to determine and evaluate the toxicities of agents and various chemicals of mission interest and to estimate the toxicities for man.
			Major accomplishments include publication of reports on (1) acute inhalation toxicity of a binary component of an organophosphorous compound VX, (2) acute toxicity of VX binary components by other routes of administration, and (3) toxicological methodology in small animals thus minimizing the use of dogs and other species in short supply. Progress was made in the development of short-term biological tests for mutagenicity and carcinogenicity. It was shown that thickening did not influence the inhalation toxicity of nerve agent GD. Studies were conducted to evaluate the threat of droplets of GD impacted at different velocities on bare or clothed animals. Acute toxicological evaluation was conducted on several threat agents and several simulants.
			Plans are to complete inhalation exposure of animals to determine the toxicological, carcinogenic, reproduction, behavioral, physiologic effects. Evaluate toxic new threat agents. Develop and refine methodology to upgrade or expand our in-house capability to conduct mutagenic, teratogenic, reproduction, and carcinogenic evaluations of threat agents.
			Operation science/technology:
			The military effectiveness of chemical systems depends on the interaction of the agent, the method of its delivery and dissemination, and the environment in which it is employed. Knowledge of these factors is critical to understanding the cause and effect relationships that govern the ability of chemical detection, protection and decontamination operations to respond effectively to such challenges, as well as providing the basis for conducting threat analysis studies and for guiding the design of efficient deterrent weapons systems. The purpose of this effort is to address and resolve the technology knowledge gaps existing in these areas through investigations of the mechanisms that control the operational performance of chemical defensive/deterrent systems. The output of this research are the technology data bases required for the predictive models and procedures employed in chemical defensive/deterrent/threat systems studies and which support the evaluation of new concepts and improvements to existing systems.
			Significant accomplishments in this period include completion of the study of factors controlling droplet formation of thickened bulk liquids released from spinning artillery shells. A predictive model and report was prepared for use in threat/deterrent munition studies. The mechanisms of surface decontamination by jet engine exhaust were investigated and the effectiveness of this technique established for biolgical species and thickened mustard agent. A study of the variables controlling the phsycial removal of contaminants by liquid spray systems was initiated with the goal of maximizing the effectiveness of this standoff technique while minimizing the time and resources required. A research task involving controlled environment experiments was also initiated to identify the vapor sources and hazard levels in armored vehicles produced by entry of contaminated personnel. As a representative to a special Ad Hoc team, a survey and analysis was conducted to identify mission-wide defensive knowledge gaps which will be used to plan and prioritize the near and long range chemical program. Research into clothing penetration by static and dynamic droplets was completed and a technical report issued for assessing the vulnerability of individual protective systems. Basic studies of the factors governing the effective sampling of aerosols by aspirated detection alarms were begun and the assessment of face masks challenged by smoke and dust clouds extended to establish the severity of the loading problem and means to minimize this potential hazard. A rheology program was initiated and a research contract awarded to characterize the critical descriptive properties of thickened liquids necessary to structure predictive models of their behavior and field and wind tunnel experiments were performed to relate the response of these unique liquids to rupturing forces.
			Chemical threat assessment technology:
			The objective is to determine the potential foreign chemical warfare threat and vulnerability and identify the needs for improved U.S. chemical defensive measures and capabilities based on laboratory and field experimentation on foreign materiel concepts. Outputs will be the establishment of the test, assessment and analytic technology, and the data base required to evaluate foreign capabilities. This effort will identify requirements affecting all other technical areas.
			Intelligence information relative to chemical threat was reviewed as it became available and integrated into the threat data base used in chemical defensive development programs. The threat assessment technology and data base was provided to other DOD elements and their contractors on numerous occasions. In order to maintain this technology and data base and to advance the state-of-the-art, a number of specific elements of the technology were addressed in fiscal year 1979. A laboratory test technology was developed, and testing was initiated to quantify the threat from evaporation of thickened liquids from contaminated surfaces and absorption of liquids into porous surfaces to clarify vapor hazard persistence and surface availability of liquids for pickup and transfer of liquid to humans operating in contaminated areas. Current chemical mathematical models which were designed to define the threat at the surface in which infantry ground forces operated were modified to define the threat in the lower air space used by tactical aircraft. The development of an evaluation model for chemical operations in urban areas was initiated with a thorough literature survey and a compilation of all models and data appropriate for the model. Data gaps have been identified. An overall chemical effects model which includes the heat stress and operational degradation of chemical protective equipment and procedures, as well as the chemical casualties, has been under development. The study on explosive dissemination of thickened liquids continued. Small-scale and full-scale munition tests were completed, and work on mathematical models of the process were initiated. A study to establish a data base and mathematical models to assess the degradation in performance due to low level physiological effects of chemicals such as miosis, nausea, muscle weakness, etc., was initiated.
			All incomplete studies will be continued in fiscal year 1930. This includes completion of the 1st version of the overall chemical effects model, completion of the experimental program of evaporation and absorption of thickened liquids on porous surfaces, completion of the 1st version of a model for degradation in performance due to less severe chemical effects, completion of a 1st version of a model for explosive dissemination of thickened liquids, quantification of the threat environment in the lower air space, initiation of a study of ventilation characteristics of urban structures (a data gap identified in fiscal year 1973), and initiation of an effort to improve modeling used for high volatility chemical agents when disseminated explosively. Current models have identified deficiencies for which technological explanations are now available. The total technology and data base will be maintained and support supplied to all DOD organizations requesting support in this area.

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
			Chemical training agents and equipment: The objective of this effort is to provide simulant agents (persistent and nonpersistent) and disseminating devices to train both individuals and units to survive in a chemical warfare environment through recognition of attack, execution of protective procedures, and decontamination when attack is recognized. Agents must be identifiable through field detection methods and be capable of being decontaminated by field decontamination methods. Studies were initiated of thickened agent simulants using polyethylene glycol (PEG) 200 with various additives which would increase training realism and provide punitive effects when the proper protective measures are not taken. The physical properties of the resultant materials were determined and compared with the properties of nerve agents GD and HD. These studies will be completed in fiscal year 1980. Toxicity tests were conducted with PEG 200 and buytl mercaptan, the persistent agent and nonpersistent agent simulants, respectively, to increase the toxicity data base of these materials. Toxicity tests were also conducted of fluorescein and tinopal CBS tracer dyes, and irritancy tests were performed on a CS/PEG 200 mixture. Exploratory development was completed of an improved airburst simulator with PEG 200 and investigations started to use this same device to disseminate thickened agent simulants. Exploratory development was also completed of nonexplosive disseminating devices for nonpersistent agent simulants. A contract was awarded for development of a radio signal activated M8 alarm training aid which is scheduled for completion in fiscal year 1980. A search for n-butyl mercaptan vapor reactions suitable for use with the M256 detector kit ticket was initiated and will be continued during fiscal year 1980. Engineering development effort: Training system for chemical defense, phase II: Engineering development continued on devices for chemical warfare defense training of military personnel. The design configurations for the simulator, projectile, airburst, liquid (SPAL), XM11; the reusable XM267 5-tube launcher: and the dispenser and chemical agent, simulant; ground, XM137; were completed and feasibility demonstrated in engineering developmental tests. Contracts were awarded for XM11 SPAL burster housings and launcher tubes for development test II (DT II) and operational test II (OT II). The XM137 dispenser is a commercial 1½ liter can and will not require any significant design effort. The outline acquisition plan, preliminary engineering drawings, and draft system specifications were also prepared.
2. Lethal Chemical Program	1.059	1.732	
	1.122	.449	
(a) Agent investigations and weapons concepts.	(.000)	(.925)	Exploratory development effort: Lethal chemical agents/weapons: The objective of this exploratory development program is to evolve agent/munition system concepts and supporting technology which will provide the United States with a credible lethal chemical agent deterrent capability. Technological support of the XM736 VX-2 8-in projectile was continued by studying the binary agent and simulant reactions in small, intermediate, and full-scale munition reactors. The simulant binary reactants were then modfied to more closely match the simulant reaction temperature and pressure to the same agent parameters. Additionally, minor changes were made to the agent binary reactants which decreased the reaction temperature and pressure and, also, increased the agent yield. These activities complete the exploratory developmental technological support of the XM736 projectile. Chemical compounds were examined as potential binary intermediate volatility agents by studying the binary reaction in several sizes of laboratory reactors. The compound EA 5355 was determined to be unacceptable for weaponization, but analogs and/or homologs of this compound may be acceptable so evaluation of these materials was undertaken. Additionally, studies were undertaken to ascertain the possibility of utilizing binary GD as an intermediate volatility agent. Binary GD reactions were conducted in laboratory reactors, over a temperature range of −20° C to +30° C, with 6 chemicals to evaluate their ability to increase the speed of the binary reaction to produce lethal agent. 2 chemicals showed high potential as reaction promoters and will be further investigated during fiscal year 1980. Additionally, chemicals for thickening the binary GD agent will be evaluated during the forthcoming year. Several munitions were studied for delivery of binary lethal agents. A binary GB, a standard U.S. nerve agent, concept was designed for the 81-mm mortar projectile and components fabricated for dynamic testing in fiscal year 1980. Dissemination trials were conducted of binary intermediate volatility agent simulant filled 155-mm projectiles on an instrumented grid to estimate the casualty producing capability of this munition. Spin fixture trials were carried out to evaluate the effect of nonrigid payloads (e.g., thickened binary agents) on the dynamic stability of artillery projectiles. Additional exploratory development studies of binary conceptual munitions are planned for fiscal year 1980. Systems analysis support was provided to the U.S. Army Ordnance and Chemical Center and School's (USAOCCS's) chemical operations study of lethal chemical agents/munitions. Mathematical modeling techniques were used to predict the casualty producing rates of 65 chemical agents/munitions combinations. The casualty data were ranked by munition type and protection mode of the enemy. USAOCCS selected 20 "best mix" agents/munitions combinations, and laboratory system analysts collected cost data on these items and provided this information to USAOCCS for inclusion in their final report of the chemical operations study planned for publication in early fiscal year 1980. A feasibility study to evolve possible inflight countermeasures against missiles with chemical agent payloads was undertaken. A chemical agent missile scenario was prepared that provided a guide to possible countermeasure techniques for investigation, as well as evaluating residual hazards from the incursion. This information was furnished to a contractor to conduct the feasibility study to achieve a matrix of countermeasure concepts versus the probability of successful incursion and the attendant hazards. This study is planned for completion in fiscal year 1980.
	(.948)	(.023)	
(b) Agent pilot plant investigation.	(.000)	(.155)	Exploratory development effort: Chemical agent process technology: The objective of this exploratory development effort is to develop chemical processing concepts for agents/intermediates manufacture and filling of binary lethal agent munitions which will provide the United States with a credible lethal chemical agent deterrent capability. In support of the XM736 VX-2 8-in projectile project, process data for one of the binary VX reactants (designated as NM) were collected for inclusion in the technical data package of this munition. Process waste stream studies of the other binary VX reactant (designated QL) were conducted in a recently refurbished incinerator. Both the chemical manufacturing process and waste stream studies of NM and QL will be completed in fiscal year 1980. Literature studies on the preparation of pinacolyl alcohol, a reactant for binary GD, were initiated. These studies will continue in the forthcoming year to determine preparative methods, costs, and raw material availability.
	.155	.000	
(c) Tactical Weapons Systems.	(.891)	(.465)	Engineering development effort: Lethal chemical ground munitions: In fiscal year 1979, the engineering development program of the XM736 VX-2 8-in projectile continued. A malfunction investigaton, resulting from two problems that occurred during the development test II (DT II) safety phase in fiscal year 1978, was successfuly completed. One problem was liquid leakage from the projectile near the howitzer's muzzle due to over lubrication and subsequent shearing of the projectile's base threads from the setback and spin-up forces. This problem was resolved by keying the long forward QL XM27 canister to the projectile body, thereby removing most of the torque from the projectile's base threads. The second problem was premature functioning of the projectile in its late trajectory before fuze set time when fired at high temperatures and long flight times due to an exothermic secondary reaction within the reactive simulant. By chemically balancing the reactive simulant components, the secondary reaction was moderated to eliminate the early projectile functioning problem. A confirmation test was conducted to verify that these changes resolved the aforementioned problems. The development test II (DT II) safety phase was then resumed and completed in May 1979. Based
	(.000)	(.426)	

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OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year / Current fiscal year	In-house / Contract	
			on the results of this test, TECOM issued a Safety Release for Operational Test II (OT II) of the XM736 projectile. The D II Transportation Phase was started and continued through Sep 79. The test phase of the Productibility Engineering and Planning (PEP) program of the XM736 projectile was partially implemented. Static testing was completed and dynamic testing was initiated. PEP designs to enhance producibility of the XM736 projectile include improvements to the projectile's base, inertia welded canister end plates, and an inertia welded expulsion cup/cgive assembly. Those designs successfully passing the PEP tests will be incorporated into the preliminary technical data package. Coordination was completed with the simulant/simulation committee. The committee members' consensus was that upon successful completion of a laboratory agent/simulant correlation program, open air testing with binary VX would not be required. This laboratory program was established with the assistance of the committee, coordinated through several Army organizations, and considerable progress made in meeting its objectives. Coordination progressed in preparation for OT II of the XM736 projectile; however, availability of safety qualified and approved M509E1 8-in projectiles for registration is the controlling factor in intiating the test. Principal fiscal year 1980 activities will be the completion of DT II and PEP tests, implementation of OT II, and finalization of the preliminary technical data package in preparation for type classification in fiscal year 1981.
(d) Materiel tests in support of joint operations plan and/or service requirement.	(.000) (.000)	(.000) (.000)	No effort expended in this area.
(e) Army material development tests.	(.168) (.019)	(.187) (.000)	Testing was implemented of binary munitions with the major emphasis on the XM-736 VX-2 8-in projectile. A malfunction investigation of early functioning XM736 projectiles required the testing of 107 projectiles containing several modifications to resolve this problem. The DT II safety phase was resumed and completed utilizing 307 XM736 projectiles of which 278 projectiles were dynamically fired. At the conclusion of the DT II safety phase, TECOM issued a safety release for OT II of the XM736 projectile. Subsequently, the DT II storage/transportation phase with 240 XM736 projectiles and the PEP safety firings using 128 XM736 projectiles were started. These tests will be completed in fiscal year 1980. Also, during fiscal year 1979, 6 intermediate volatility agent simulant filled 155-mm projectiles were fired over an instrumented grid to determine characteristics of the disseminated liquid aerosol.
3. Incapacitating chemical program	.100 .000	.100 .000	
(a) Agent investigations and weapons concepts.	(.100) (.000)	(.100) (.000)	Exploratory development effort: Incapacitating Chemical Agents/Weapons The objective of this effort is to uncover and evaluate incapacitating chemicals, develop concepts of use, and establish the feasibility of munition devices for their delivery. Current emphasis of this program has been on developing physicially incapacitating agents that would not only be effective by inhalation, but would also penetrate clothing and be effective through the skin. 2 approaches to this problem have been investigated. In the 1st, solutions of agents in percutaneously active solvents were screened for enhancement of percutaneous activity and for their ability to penetrate clothing. In the 2d approach, structural analogs of a compound of interest were synthesized, to seek a more volatile compound that would also have percutaneous activity. Explosive dissemination studies of an agent simulant have been continued, to relate droplet size the to dissenination technique. A new study toeexamine and define current concepts for use of incapacitating agents was initiated. It is planned to complete these studies during the current fiscal year. However, the synthesis program is considered to be an ongoing effort due to the need for an incapacitating agent that will penetrate multiple layers of clothing.
(b) Agent pilot plant investigations.	(.000) (.000)	(.000) (.000)	No effort was expended in this area.
4. Defense equipment program	2.042 25.663	16.123 11.582	
(a) Physical protection investigations.	(.335) (4.271)	(2.950) (1.656)	Exploratory development effort: Chemical decontamination and contamination avoidance: The objective of this technical area is to evolve procedures, materials and equipment for use in decontamination of personnel, personal items, clothing and tactical (T.O. & E.) table of equipment by all armed services. Included are studies on designes and materials which preclude chemical contaminatcn and allow for ease and speed of decontamination to the optimum degree practicable. The studies also support decontamination concepts for industrial operations. The major accomplishments are as follows: (a) A study was begun to determine the evaporation characteristics of agents from a variety of surfaces. These data will be used to project hazard levels which are to be addressed by all systems under development. The major accomplishments are as follows: (a) A study was begun to determine the evaporation characteristics of agents from a variety of surfaces. These data will be used to project hazard levels which are to be addressed by all systems under development. (b) A survey of industrial state-of-the-art materials and materials compatibility was continued. Data generated will be used to prepare a materials handbook for use by all military materiel developers. (c) Work was begun to refine previous efforts on design requirements for military materiel to minimize contamination or ease or speed of decontamination. A handbook containing the resulting recommendations will be published for use by materiel developers. (d) An investigation was begun of the feasibility of using laser produced multiple photon dissociation as a new decontamination technique. This study, if successful, would result in a radically new decontamination method. (e) Water based decontaminants were studied as possible substitutes for DS2. If any of the concepts under investigation prove successful, a decontaminant will be available which is noncorrosive and noncombustible and poses less of a logistical burden than DS2. (f) Concept models of jet exhaust, steam/hot water, and high intensity infrared decontaminating systems were produced. Evaluations were begun. The most attractive concept(s) will be further developed into a new large scale (rapid) decontamination system. (g) A study was begun of methods of decontaminating chemical protective clothing; steam, laundry, and microwave methods are to be considered. A successful system will reduce replacement logistics for protective gear. (h) Contracts were begun to address the question of the decontamination of the interior of combat vehicles. Efforts are directed at finding a method which is not destructive of the materials and devices found on the interiors of tanks, shelters, personnel carriers, etc. (i) Planning for a symposium on the entire decontamination program, to be held in the spring of 1980, was begun. The symposium is intended to open the problems of decontamination to the thinking and expertise of private industry and research institutions. Chemical protection technology: The development in this area is to provide improved concepts, methods, and materials for individual respiratory, body and collective protection against all potential threat agents for triservice application. In addition, this work supports concepts for occupational health and safety in industrial operations. This is accomplished by in-house/contractor efforts on sorbents; concepts for residual gas life indicators; studies on materials and methods which reduce energy, logistical and/or physiological demands and improve optical and communications characteristics

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OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)			Explanation of obligation
	Prior year	In-house		
	Current fiscal year	Contract		
				of protective items; and evaluation of protective systems against all agents. Accomplishment during fiscal year 1979 included: (a) Completion of residual gas life indication application to certain gas filters. (b) Completion of feasibility studies of simplified CP for existing structures. (c) Contractual effort to develop microencapsulated agent-reactive material. (d) Exploitation of replacements for ASC wheterite. (e) Finding new materials for new mask. The probe in bed technique for determining residual gas life using the modular collective protective equipment (MCPE), M12A, M18, and the Canadian mask canister, was investigated under contract by Mine Safety Appliance Co. research. A contract was negotiated to investigate various electronic methods of residual life measurements. A contract was negotiated to investigate various electronic methods of residual life measurements. A draft letter of agreement (LOA) was forwarded to TRADOC. Contractual work at Worcester Polytechnical Institute (WPI) on a methane/ethane pulse method for residual life indicator looks promising for wider filter applications. A new contract for scaled-up studies of viton and trimethylol propane trimethyacrylate was awarded to Lehigh University. Resolution of low temperature flexibility limitations was studied. Laundered overgarments were evaluated for HD vapor capacity and the report published in 4th quarter fiscal year 1979. The contract with Southern Research Institute was awarded in 4th quarter fiscal year 1979 to continue the development of microencapsulated agent-reactive materials for application to protective clothing.
(b) Chemical warning and detection investigation.	(.000)	(2.593)	Exploratory development effort:	
	(3.238)	(.645)		Chemical detection and identification technology: The objective is to evolve new physical, chemical, and biological concepts for use in new equipment. This equipment will detect and identify lethal and incapacitating (cml) agents in air, in water, and on surfaces. It will include a field capability to sample and analyze unknown toxic chemical agents and individual detectors for soldiers. The aim is to increase sensitivity and ease of use while decreasing the logistical burden. All tasks are applicable to Army, Navy, Air Force, and Marine Corps requirements. A program has been initiated to develop a contamination monitoring system to valuate vehicle, clothing, and terrain surfaces for agent before and after contamination. Studies have been conducted on painted panels and articles of clothing contaminated with different agents to determine the ability of standard items to detect the presence of agent vapor above the surface after various periods of time. Technical reports will be prepared for use by USAOCCS in preparing a manual for field use. A longer range program has begun to develop a complete contamination monitoring system. Studies were begun on an M256 detector kit training device to detect the nonpersistent simulant used during field training exercises. A series of reagents were found which produce colored reaction products with the simulant (butanethiol). These are being evaluated for sensitivity and stability. Also, reagent systems were developed to produce the desired color change when no agent or simulant is present. A program has been initiated to develop an NBC reconnaissance system which will provide a sampling, analysis, and marking capability. As in the contamination monitoring system, the program will produce technical reports for use by USAOCCS in preparing manuals for field use. Work has been started on a long range development to meet all field needs. Chemical alarms technology: The objectives of this area are to evolve new and improved equipment for the automatic detection of all lethal and incapacitating agents. The new alarms will add remote sensing and contamination monitoring capabilities as well as provide a means of disseminating the alarm to a company size unit. Current alarms will be improved by increasing the number of agents detectable and chemical agent sensitivity, while decreasing the logistical burden on the unit. All tasks are applicable to Army, Navy, Air Force, and Marine Corps requirements. A letter of agreement is being processed by TRADOC for the automatic liquid agent detector (ALAD) to provide a capability for automatic detection of liquid agent droplets. Efforts are also being conducted under Air Force funding to provide an ALAD add-on to the Air Force production model of the A/E 23D-2 (ionization detector). Studies to develop an alarm system to satisfy the joint service operational requirement (JSOR) for an advanced chemical agent detector alarm (ACADA) are now being concentrated on the concept of ion mobility spectrometry (IMS). Feasibility studies on two competing experimental IMS alarm systems, each designed by a different contractor, were initiated. One system demonstrated the capability of detecting mustard agent directly while the other system required the use of a Corona generator to convert the mustard to a detectable compound prior to detection. Laboratory tests indicated that both systems should be able to meet the JSOR detection requirements for mustard. Feasibility studies, including sensitivity, interference, and environmental testing, were pursued and results look promising for both systems. Based on results during exploratory development, 1 of these 2 systems will be selected for entrance into advanced development. Studies to develop a chemical method of converting mustard to a compound detectable by the IMS, which would prove superior to the Corona generator method have continued. Some success was achieved in efforts to improve the agent sensitivity of this system by employing a microporous membrane and a suitable adsorbent/desorbent material to preconcentrate the agents.
(c) Advanced development of defense systems.	(1.707)	(4.095)	Advanced development effort:	
	(10.027)	(7.639)		Chemical decontamination materiel: The decontaminating apparatus, portable: 19 liter, XM13, is being developed to meet one of the needs cited in the U.S. Army Ordnance and Chemical Center and School study, "Improved Chemical Defense for Battalion-Sized Units" made in 1975. The threat of battlefield contamination by thickened and unthickened vesicant and nerve agents dictates the requirements for a crew operated decontamination apparatus which will reduce the toxic chemical agent hazard level of tactical vehicles and weapon systems in the combat zone. The XM13 is being developed to provide an increased capability over the standard M11 unit, especially in terms of greater area that can be decontaminated. Additionally, the XM13 will provide a brushing capability to enhance decontamination of thickened agents. The unit is being designed to be compatible with both the standard decontaminant DS2 and water. The XM13 will be vehicle mounted, man portable, and manually operated. The concept of an auxiliary powered system for emptying the container is being studied. The 1st 6 mo of a 2-yr developmental contract have been completed. Working models have been demonstrated and selection of 2 of these models for further development has been made. The objective of this task is to evolve a materials compatibility handbook to provide guidance in contamination minimization primarily for nuclear weapons systems. Specific studies include detailed investigation of the effect of decontaminants, agents and decontamination breakdown products on material and development of water-based decontaminants which are not combustible, excessively corrosive or deleterious to weapons and weapons sysems. Evaluation and screening studies were begun in an effort to identify a water-based replacement for DS2. 2 contracts were awarded to study 2 types of water-based decontaminants. 1 contract has been completed, the other will terminate by 1st quarter, fiscal year 1980. Studies to quantify the effects of agents and decontaminants with components of a nuclear weapons system were investigated. This information is input to the technology handbook. Studies were initiated on a personal decontamination system which led to a product improvement on the M258 decontamination kit. Chemical warning and detection materiel: Advanced development was reinitiated on the chemical remote sensing alarm, XM21 (SCI-REACH I) based on long path infrared technology. The advanced development contract for this effort was awarded in March 1979. A review will be held in September 1980 to decide whether to enter engineering development in fiscal year 1981. The letter of agreement for a detector kit for chemical agents in water was approved by TRADOC and DARCOM in June 1979. The advanced development program has been initiated. A request was made for a secretarial determination and finding (D. & F.) to authorize the development contract and a scope of the contract was prepared pending approval of the D. & F. A final technical report is in preparation for the XD phase of this program.

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Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year / Current fiscal year	In-house / Contract	
			Engineering development effort: Individual chemical protection: There is a military requirement for a new protective mask to provide respiratory protection against field concentrations of all chemical and biological agents in vapor or aerosol form. This new mask shall replace the M17 and M17A1 field protective masks, M24 air crew mask, M25A1 tank protective mask, M9A1 special purpose mask, and the Navy MK-V mask. Engineering development was initiated on the XM29 mask in Sep 77 under contract with Sierra Engineering Co. (now Scott Aviation-Sierra Products, Inc.), Sierra Madre, Calif. The XM29 mask is molded of transparent silicone rubber with integral lens, referred to as the unimolded design. The large flexible lens of the XM29 mask provides a maximum field of view and is compatible with all field optical devices and weapon sight. An external canister is easily replaced and can be worn on either cheek to accommodate both right-handed and left-handed soldiers. The new mask will fit over 95 percent of the military population including females. With appropriate accessories, the XM29 mask will satisfy the requirements for air crew, tank crew, and special purpose applications. Because of the permeability and soft, tacky surface of silicone, coating of silicone is essential to meet military requirements. Extensive efforts to develop a fully satisfactory coating system were not successful. The program was redirected from the unimolded XM29 design to the separate lens configuration (bonded in lens) of the XM30 design in April 1979. Candidate XM30 mask prototypes with both coated silicone and uncoated polyurethane lens were furnished by Scott Aviation-Sierra Products, Inc., Mine Safety Appliance Co., and ILC-Dover for in-house comparative evaluation. None of the candidate flexible lens materials were found to satisfy fully military requirements for operation at environmental extremes, resistance to field solvents, and durability. The Army will consider the limitations of the XM30 mask in view of the urgency of the requirements at a special review in October 1979 and decide on whether or not to terminate further development until a fully satisfactory lens material is developed. In the event that engineering development is terminated, alternatives to the flexible lens design will be developed and evaluated concurrent with an expanded exploratory investigation on new flexible lens materials. Note: Since the cut-off date of this report (September 1979), Department of the Army conducted an in-process review (IPR) on the new protective mask program during October 1979 and decided to continue engineering development and concurrently initiate a program to investigate new materials and designs for the new mask.
(d) Collective protection system.	(.000) (.090)	(.085) (.005)	Engineering development effort: Chemical biological collective protection: Modular collective protection equipment must be capable of providing NBC protection for applied systems crew members in environmental categories 1-6. A continuing effort is necessary to adapt and demonstrate capability of MCPE to service AN/TSQ-73. Improved Hawk, Patriot, Sam D, firm CP requirements and any new collective protection requirements established by TRADOC. Testing of the XM5 static frequency converter was completed. MCPE was fabricated with ancillary components. Compatibility tests were made to verify capability of MCPE for servicing new applications.
(e) Warning and detection equipment.	(.000) (1.000)	(.962) (.038)	Engineering development effort: Chemical detection and warning material: The signal, illumination, ground audible, chemical attack warning transmission system, XM207 (CAWTS), entered engineering development this year. It consists of an M158/159 ground signal which has been modified to contain the audible and visual alarm components required by the letter requirement. To provide warning of a chemical agent attack over a company area, this system provides a warning which can be seen and heard at 0.5 kilometers. TRADOC has requested that the alarm package be modified to produce an audible signal lasting 10 seconds and visual single stars consecutively burning white, red, white. Tests have indicated that the changes are achievable. The paper, liquid chemical agent, XM9, is a dye impregnated paper that turns red when hit with liquid agent. The paper is wrapped around the soldier's arms and legs and attached to the outside of vehicles. Positive color changes indicate a liquid chemical agent rain attack. This item will provide the Army and other services with a capability whereby each individual can determine when or if they or their equipment has been exposed to droplets of toxic chemical agents. It does not replace any existing item. This item is in the final stages of development which is scheduled for completion in fiscal year 1980. Development and operational testing has been completed and reports are being prepared by TRADOC and TECOM. The problem of false positive reactions produced by LSA (lubricant, small arms) on this detector paper continues. 2 alternates look promising. Recent data has shown that a nonmutagenic blue dye, which masks the color produced by the LSA, is effective. An alternate lubricant, CLP, which does not produce false positive spots, is presently being evaluated by ARRCOM and standardization seems likely.
(f) Medical defense against chemical agents.	(.000) (7.027)	(5.428) (1.599)	Exploratory development effort: In the area of medical prophylaxis and therapy against nerve agents, considerable data has been collected which indicates that both atropine and benactyzine, 2 potent components of the currently fielded therapy, cause serious neurobehavioral side effects. These side effects seem to be independent and yet temporally sequential. Studies which would elucidate the nature, extent, and duration of these side effects were undertaken and the data indicate that benactyzine has a very short onset and duration while atropine has a slow onset and a long duration. Preliminary data from other novel experimental studies developed to measure defined neurobehavioral systems also inidicate decrements in animal performance after current therapy (TAB) administration without agent exposure. Due to inherent scientific reproducibility and interpretability, these types of studies will continue to be used to study future antidotal compounds which may have fewer side effects and greater efficacy against nerve agent posioning. A better understanding of the mechanisms of action of both the organophosphates and of the therapeutic compounds used to treat organophosphate poisoning is necessary to provide more efficacious antidotes. Mechanistic studies have indicated that neurotransmitters other than acetylcholine are involved in nerve agent poisoning. Data also indicate significant direct involvement of specific brain areas which include critical central respiratory and vision centers. The studies also indicate that these central aberrations are not directly counteracted by current therapy. However, these newly developed techniques will expedite the development and evaluation of new centrally active therapy compounds. Animal studies designed to test the increased efficacy afforded by pyridostigmine pretreatment were developed. Data indicate that pyridostigmine pretreatment enhances protection of current therapy and other novel therapy regimens. Sensitive methods to detect pyridostigmine in human body fluids have been developed. Human studies designed to establish effective doses of pyridostigmine without a decrementation in performance have been deferred at this time. Membrane receptor isolation studies have been developed to study nerve agent and therapeutic compound interactions with receptor sites. These studies are delineating the specific membranal location of agent action in peripheral neuromuscular junctions. This will permit studies involving the synthesis of specific ligands which will bind to and protect the cholinergic receptors from the poisoning effect of nerve agents. Innovative experiments have been designed and developed to study the effects of nerve agents on noncholinergic enzyme systems. Data from these studies indicate that nerve agents may interfere with neuronal membrane transport and metabolic systems thus having more subtle indirect effects on neuronal function than previously realized. Studies of percutaneous protection from nerve agents have been developed to evaluate protective barriers. Data indicate the polyethylene glycol 1500 provides minimal protection against the various nerve agents. The major limitation of this preparation may be its wearability under adverse conditions in a combat situation. More realistic experimental models are being developed to evaluate this and future protective creams and barriers. Exposure of bacterial cells to the chemical agent mustard results in damage to the cellular DNA. This damage interferes with cellular replication and growth and may be the basis for the severe vesication seen as a result of mustard contamination in humans. The search for compounds to protect against mustard induced DNA damage has not been fruitful. Novel approaches are being evaluated, and the mustard research program is being revised. Animal trials of an antidote to replace nitrites for cyanide injury have been initiated. Data indicate that 4-dimethylaminophenol (4-DMAP) is efficacious in the treatment of cyanide poisoning. Preliminary results infer a lack of side effects as seen with the nitrites. Future studies could lead to an investigational new drug (IND) application for 4-DMAP as a replacement item for the nitrites in treatment of cyanide poisoning.

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Description of R.D.T. & E. effort	Funds obligated (millions of dollars) Prior year Current fiscal year	Funds obligated (millions of dollars) In-house Contract	Explanation of obligation
			In conjunction with the transfer of the Biomedical Laboratory to the U.S. Army Medical Research and Development Command, panels of experts were convened to review the research programs of medical defense against chemical agents. These reviews resulted in recommendations which will be developed into new programs to assess the efficacy of novel therapy compounds and treatment regimens for medical defense against chemical agents.
(g) Materiel tests in support of joint operational plans and/or service requirements.	(.000)	(.000)	No effort expended in this area.
	(.000)	(.000)	
(h) Materiel development tests.	(.000)	(.000)	Engineering development effort: Paper, liquid chemical agent, XM9: Performed DT II and agent testing of samples of XM9 returned from environmental sites.
	(.000)	(.000)	
Simulant test support	.000	.561	
	.650	.089	
(a) Materiel tests in support of joint operational plans and/or service requirements.	(.000)	(.561)	Efforts were directed toward the planning, conducting and/or reporting of the following joint operational tests and operations research studies: (1) Simulant review and selection: This is a continuing effort and is designed to determine from laboratory/chamber experiments the physical/chemical properties most important in simulating thickened agents and to develop a spectrum of chemical agent simulants for use in field testing. During this period, a wide spectrum of possible thickeners for a number of candidate test materials has been tested. Literature review has been updated as pertinent data becomes available. 3d annual report has been published covering the fiscal year 1979 efforts. (2) Agent transfer factors: This test is designed to obtain data on the transfer factor and pickup associated with the field employment of vehicle and equipment exposed to thickened agent simulants. Laboratory testing for obtaining the transfer function and evaporation rate has been completed and the report published. Field trials were conducted utilizing various items of material which were contaminated with agent simulants, decontaminated and then subjected to various handling and/or operating sequence by personnel. Technical difficulties with the data reduction analysis and evaluation has delayed the publication of the final report. Report scheduled for completion 1st quarter fiscal year 1980. (3) Effects of chemical attack on tactical staging operations: This study will evaluate the effects of an attack with chemical agents in tactical staging areas and will provide a data base for a realistic appraisal on the effects of such an attack on tactical operations. Literature review has been completed. A general evaporation model was developed and verified with field test data. Study scope was increased to evaluate various targets. Study is currently scheduled for completion 3d quarter fiscal year 1980. (4) Chemical logistics evaluation: This test is designed to evaluate the current U.S. Marine Corps chemical weapon and support systems. Laboratory investigation for the determination of the simulant materials to be used for the field trials has been completed. Trials involving filling and decontamination exercises have beee completed. Dissemination testing has been initiated and 6 of 12 field trials have been completed. The remaining dissemination trials and final report will be completed by the 2d quarter fiscal year 1980. (5) Protective capabilities of standard personnel gear: This test is designed to evaluate the protective capabilities of the standard Army combat environmental uniforms, U.S. Navy foul weather gear, the Army's wet weather gear, Marine Corps/Air Force aircrew antiexposure suit liner, Air Force firefighter equipment and candidate material for future fabrication of foul weather gear. Tests utilizing different combinations of material samples with chemical agents to obtain penetration data have been completed and a draft interim report has been completed. Chemical agent vapor challenges of various ensembles to measure vapor penetration conducted in chambers have been initiated. Laboratory investigations to determine whether the CB overgarment can be effectively decontaminated and still provide protection is in progress. Test completion is scheduled for 1st quarter fiscal year 1980. (6) Agent characteristics and effects: This study is designed to catalogue and describe the characteristics of and the effect in man produced by chemical and biological agents. A literature search has been completed and data are being tabulated for a variety of chemical and biological agents. Study will be completed 1st quarter fiscal year 1980. (7) Weapons effects: This study is designed to evaluate and summarize chemical and biological weapons effects. Scope of effort has been coordinated. A literature search is in progress and data are being tabulated. Study will be completed in the 4th quarter fiscal year 1980. (8) Material/terrain decontaminant evaluation: This is designed to evaluate decontaminant effectiveness on a variety of military equipment surfaces to include aircraft and aerospace equipment. During this period planning and coordination with the services was completed. Testing was initiated with completion scheduled by 3d quarter fiscal year 1980.
	(.650)	(.089)	

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Description of PAA effort	Funds obligated (millions of dollars) Prior year Current fiscal year	Funds obligated (millions of dollars) In-house Contract	Explanation of obligation	
Chemical warfare program	0.977	7.087	During the fiscal year 1979, the Department of the Army obligated $25,998,000 for procurement activities associated with chemical warfare agents, weapons systems, defensive equipment and production base projects. Program areas of effort, concerned with these obligations were as follows:	
	25.021	18.911	Lethal chemical program:	
			Materiel procurement	0
			Production base projects	398,000
			Total lethal chemical	398,000
			Incapacitating chemical program:	
			Materiel procurement	0
			Production base projects	0
			Total, incapacitating chemical	0
			Defensive equipment program:	
			Materiel procurement	23,186,000
			Production base projects	2,414,000
			Total defensive equipment	25,600,000

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Description of PAA effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
1. Lethal chemical program	.000	.398	
	.398	.000	
(a) Item procurements	(.000)	(.000)	No obligations were incurred for procurement of lethal chemical end items.
	(.000)	(.000)	
(b) Production base projects	(.000)	(.398)	Obligations incurred to provide process data for production waste, canister filling and projectile assembly required for the 8-in. binary projectile.
	(.398)	(.000)	
2. Incapacitating chemical program	.000	.000	
	.000	.000	
(a) Item procurements	(.000)	(.000)	No obligations were incurred for procurement of incapacitating chemical items.
	(.000)	(.000)	
(b) Production base projects	(.000)	(.000)	No obligations were incurred for production base projects in support of incapacitating chemical programs.
	(.000)	(.000)	
3. Defensive equipment program	.977	6.689	
	24.623	18.911	
(a) Item procurements:			
(1) Decontaminating apparatus, M12A1	(.167)	(.389)	Obligations incurred for in-house support and procurement of M12A1 decontaminating apparatus.
	(1.820)	(1.598)	
(2) Filter unit, M8A3	(.000)	(.107)	Obligations incurred for procurement and in-house engineering support for M8A3 filter unit to supply purified air for crewmembers of armored vehicles.
	(.662)	(.555)	
(3) Filter unit, M13A1	(.000)	(.760)	Obligations incurred for procurement and in-house engineering support for M13A1 filter unit used to supply purified air for crewmembers of armored vehicles.
	(1.440)	(.680)	
(4) Alarm, M8—M10, chemical agent	(.172)	(1.776)	Obligations incurred for procurement and in-house engineering support of chemical agent alarms used to detect chemical agents.
	(16.642)	(15.038)	
(5) Shelter system, M51	(.505)	(.505)	Obligations incurred for in-house engineering support of M51 shelter used to provide CB protection to field units.
	(.000)	(.000)	
(6) Modular collective protective equipment	(.000)	(.605)	Obligations incurred for procurement and engineering support of modular collective protection equipment used to provide CB protection to field units.
	(1.645)	(1.040)	
(7) Mask, M24	(.133)	(.133)	Obligations incurred for in-house engineering support of M24 mask used to provide CB protection to air-crew personnel.
	(.000)	(.000)	
(b) Production base projects:			
(1) MMT CB filters	(.000)	(.400)	Obligations incurred for establishment of production process data to provide industry for manufacture of numerous large CB filters.
	(.400)	(.000)	
(2) MMT new protective mask	(.000)	(.629)	Obligations incurred to establish a pilot facility to prove out production concept for the new protective masks.
	(.629)	(.000)	
(3) MMT biological warning system	(.000)	(.525)	Obligations incurred to resolve production problem areas for specific components prior to industry production.
	(.525)	(.000)	
(4) MMT charcoal filter tests	(.000)	(.860)	Obligations incurred for manufacturing methods and technology efforts in connection with charcoal filter tests.
	(.860)	(.000)	

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Biological research program	0.134	12.579	During the fiscal year 1979 the Department of the Army obligated $16,495,000 for general biological research investigations and the development and test of physical and medical defensive systems. Program areas of effort are as follows:
	16.361	3.916	Biological research: Basic research total $300,000
			Defensive systems:
			Exploratory development 12,295,000
			Advanced development 0
			Engineering development 3,810,000
			Testing 90,000
			Total defensive systems 16,195,000
			Simulant test support 0
1. Biological research	.000	.149	
	.300	.151	
(a) Basic research	(.000)	(.149)	Basic research in support of biological defense materiel:
	(.300)	(.151)	The objectives of this research are: To acquire basic information on support of biological defense systems, and to continue augmentation of a technology base in nonmedical aspects of biological defense; conduct research on basic phonomena in biochemical, optical, aerobiological and microbiological methodology with relevance to rapid detection, identification and decontamination of bacteria and viruses.

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OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD–D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year / Current fiscal year	In-house / Contract	
			Methodology was devised for enzymatic release and conversion of tissue cell constituents to fluorescent or colored products. Detection of tissue cell fragments was demonstrated for a peroxidase-linked specific antibody technique. Both of these accomplishments offer a potential for virus detection that can be utilized in the biological agent test kit (BATEK III). In fiscal year 1980, elucidation of enzymatic detection of tissue cell neuraminic acid will be completed, and studies on enzyme linked antibody detection of tissue cell neurominic acid will be completed, and studies on enzyme linked antibody detection of tissue cell antigens will acquire data on the feasibility of these indirect approaches to virus detection. Regarding real-time detection of biological agents, interferometry and Fourier transform spectroscopy studies will be conducted on microwave absorption by biological aerosols.
2. Defensive equipment program	.134	12.430	
	16.061	3.765	
(a) Physical defense against biological agents.	(.000)	(.750)	Exploratory development effort:
	(1.045)	(.295)	Biological detection and alarm technology: The objectives of the investigations in this area are to evolve new concepts for rapid detection and warning of a biological agent attack, new or improved decontaminating agents, equipment, and procedures for use against biological contamination, and to evaluate protective items for biological defense. All tasks are applicable to Army, Air Force, Navy, and Marine Corps requirements. Candidate detection and decontamination concepts are evaluated for feasibility; those with sufficient promise are tested for entry into AD. Potential threats to present and future materiel or systems are considered. No viable alternatives presently exist for achieving the required biological defense capability. Laser induced detection and ranging (LIDAR) hardware for field testing is now being fabricated under an exploratory development contract. This hardware will demonstrate the feasibility of remote sensing techniques in the field using biological aerosols, ambient background, and possible interferents. A rapid responding biological alarm contract was negotiated to fabricate 4 breadboard rapid chemiluminescence devices. The devices are to achieve detection in 20 seconds or less to show feasibility of development. A draft comprehensive report was prepared which analyzed the biological defense system development needs. The biological decontamination effectiveness of the jet exhaust decontamination system was studied. Efforts were continued to provide biological support for the new mask development program.
(b) Biological defense materiel concepts.	(.000)	(.000)	No effort expended in this area.
	(.000)	(.000)	
(c) Biological defense materiel.	(.000)	(2.614)	Engineering development effort:
	(3.810)	(1.196)	Biological defense materiel: The objective of this project is to complete ED on a first generation biological agent detection and warning system for Army field use. The system will be employed at brigade and division tactical operations centers. This materiel is responsive to the capability requirements of the armed services. The development of this system is scheduled for completion in fiscal year 1981. The unit consists of the XM19 alarm which automatically detects biological agent in the atmosphere by a chemiluminescent reaction. The XM2 sampler, which is then automatically activated, samples the atmosphere for subsequent identification by designated medical laboratories. Engineering development continued with the completion of the engineering design, test, and evaluation phases. Field tests were performed to acquire additional simulant challenge and amibient background performance data. Level III drawings were completed and preparation of specifications initiated. Review of various organizational and operational issues was conducted at a joint working group meeting convened by TRADOC. Studies were initiated to evolve approaches to providing the capability of determining "all clear" conditions after a biological attack.
(d) Medical defense against biological agents.	(.134)	(8.799)	Exploratory development effort:
	(10.939)	(2.274)	Medical defense against BW: The experimental programs are targeted toward: (a) Medical defense against biological warfare (BW); (b) infectious illness which pose special problems to our military forces; and (c) the safe study of infectious, highly dangerous microorganisms in the unique and special containment facilities. During the past year, the research programs continued to emphasize studies on some of the most virulent and pathogenic microorganisms known. Priority I studies continued on many high-hazard viruses which require special P–4 containment facilities including viruses that cause Lassa fever, Congo/Crimean hemorrhagic fever, Bolivian hemorrhagic fever, Argentinian hemorrhagic fever, and Korean hemorrhagic fever (KHF). Most recently, another high-hazard P–4 agent, Ebola virus, was successfully introduced into the program. Other priority I studies were concerned with Rift Valley fever, Legionnaires' disease, anthrax and botulism. All priority I studies are concerned with microorganisms which are lethal for man, present enormous safety problems and at the same time possess significant BW potential. USAMRIID is one of the few laboratories in the free world where any such agents can be studied with minimum risk to laboratory personnel and no risk to the surrounding environment. It is the only laboratory in the free world where so many P–4 class agents can be studied at the same time. The goal of the research is to develop safe and effective vaccines or toxoids to prevent these highly dangerous but poorly understood diseases and to discover methods by which they can be treated successfully should they occur. These laboratory studies provide a base of information which can be used to scale-up vaccine or toxoid production to industrial-sized operations, which can then be defined and described by standard operating procedures (SOP). These SOP's represent a unique national resource in emergencies, significantly reducing the time required to produce adequate quantities of a critically needed new vaccine or toxoid. Pathogenesis and immunogenesis studies continue to support the development of vaccines, toxoids and therapeutic measures. Second-order priority studies included work on Japanese B encephalitis, Chkiungunya, and Venezuelan equine encephalomyelitis (VEE). Toxin studies continued with bacterial exotoxins and enterortoxins. New diagnostic capabilities were developed as were new treatment methods for other viruses, bacteria and bacterial toxins. All studies on the rickettsial diseases were transferred to Walter Reed Army Institute of Research with the exception of Q fever, a rickettsial disease with significant BW potential. A national workshop to discuss all aspects of Q fever immunization research was held in August 1979; the leading experts on this topic were invited to this work shop in order to sharpen the thrust of the USAMRIID research program for this disease. Microorganisms or toxins in priority II are also highly dangerous for man, possess significant BW potential and pose special problems of safety; however, at an intermediate order of magnitude. Priority III studies, the lowest order of priority, included work on Western and Eastern equine encephalitis, melioidosis and tularemia. A review of a few of the more important program achievements during 1979 are briefly summarized as follows before specific statements of progress are presented by category. The Institute acquired fixed and transportable P–4 containment plastic human isolators (Vicker's) for the hospital care and safe transport of patients suffering from highly contagious, often lethal infectious diseases. In cooperation with the U.S. Air Force, these units were tested with volunteers under long-flight conditions to simulate the evacuation of a contagious patient from Panama to USAMRIID. The test was most successful and established this unique mode of medical evaluation as an achievable reality for future patients. In conjunction with the Institute's in-house P–4 isolation suite, and the recently upgraded clinical diagnostic laboratory, USAMRIID now has the capability to go anywhere in the world to pick up patients suspected of having a high-hazard infection, to safely transport the patient to the Institute, and to provide "state of the art" medical care for the patient while insuring maximum protection to the medical and laboratory staff personnel. Ebola hemorrhagic fever virus was introduced into the program during fiscal year 1979 and has been successfully cultured in vitro. The guinea pig was demonstrated to be an effective model for studying this lethal and poorly understood disease. Preliminary data indicate that the virus can be "plagued" and, therefore, can be detected and assayed in a relatively simple, straight-forward manner during future research investigations. This work has increased in importance as the result of September 1979, information that another outbreak of this disease may have occurred in Southern Sudan with 25 deaths among 61 cases. Efforts to confirm the outbreak's cause as Ebola virus are in progress at the Center for Disease Control (CDC), Atlanta.

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OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)			Explanation of obligation
	Prior year	In-house		
	Current fiscal year	Contract		

Lethal animal models were developed for studying Lassa fever in rhesus and cynomolgus monkeys and in inbred (strain 13) guinea pigs. Moreover, it was found that cynomolgus monkeys could be treated with partial success using either the antiviral drug, ribavirin, or immune serum. A combination of ribavirin plus immune serum was more effective than either treatment alone. Using this combination, all monkeys could be saved even when treatment was started late in the course of the disease. Application of this new information to human patients being studied by CDC physicians in the Sierra Leone is expected early in fiscal year 1980.

A new generation of Rift Valley fever (RVF) vaccine has been produced in industrial sized quantities and tested in humans. The vaccine was shown to be both safe and immunogenic. USAMRIID is the only source of this human RVF vaccine. This vaccine is contributing to control of the spread of RVF from Egypt to the Sinai, Israel, and other parts of the Middle East. It has been used to protect troops of United States, Sweden, and Canada serving with U.N. Forces in Sinai, and is used to protect laboratory workers and field veterinary diagnostician staffs in Egypt, Israel, South Africa, and Rhodesia.

Finally, 700 liters of human botulism multivalent immune plasma have been collected and stockpiled. This product is also a unique resource, inasmuch as the previously available antibotulinum serum was produced in horses, caused severe side effects in many recipients, and is no longer marketed by American firms.

Specific statements of progress are included under the following headings: Clinical studies, vaccine development, vaccine adjuvant studies, immunological responsiveness studies, pathogenesis studies, diagnostic studies, therapy, and microbial toxin studies.

Clinical studies:

A vigorous program of clinical research was conducted during fiscal year 1979, fully utilizing its pool of medical research volunteer subjects (MRVS) in carefully selected and closely supervised projects of key medical importance. These studies included tests of new investigational vaccines in volunteers; long-term phase III studies of the existing investigational vaccines being used to protect laboratory personnel throughout the United States and in foreign countries; studies performed in collaboration with Walter Reed Army Institute of Research (WRAIR), U.S. Army Research Institute of Environmental Medicine (USARIEM) or the National Institutes of Health (NIH), and, finally, studies conducted during the clinical observation and care of patients admitted to the high-containment (P-4) hospital suite because the patients were suspected of having been exposed to a highly dangerous infectious microorganism.

Major areas of clinical research included: (a) The evaluation of an experimental dengue-2 vaccine; (b) the evaluation of antimalarial drugs against either Plasmodium vivax or Plasmodium falciparium in volunteers. These 2 studies were sponsored by WRAIR but were performed at USAMRIID because of its unique experimental hospital ward; (c) the evaluation of the immunologic response of volunteers to booster administration of botulinum toxoid and the evaluation of additional lots of botulinum toxoid; (d) the evaluation of a new generation of RVF vaccine exploiting recent advances in technology; (e) the evaluation of the physical performance capabilities of volunteers infected with sandfly fever virus in a study conducted as a collaborative project with USARIEM; (f) the evaluation in volunteers of the ability of transfer factor to induce protection against tularemia.

In addition to the studies performed in MRVS, the phase III testing of a large number of investigational vaccines was continued in the laboratory workers and other collaborating institutions. These vaccines were administered primarily for the safety of "at-risk" laboratory workers and included live attenuated TC-83 VEE vaccine, inactivated EEE and WEE vaccines, inactivated phase II Q fever vaccine, attenuated live tularemia (LVS) vaccine inactivated RVF vaccine, inactivated Chikungunya vaccine and polyvalert botulinum toxoid. Assessment studies performed on both the live, attenuated VEE vaccine (TC-83) and the killed VEE vaccine (C-84) suggested that a combination of both vaccines should be used in the future protection of laboratory workers. Accordingly, initial VEE vaccinations are being performed with the live TC-83 product with booster C-84 vaccinations given to those individuals whose anti-VEE titer either does not reach, or falls below, values deemed to be protective. This procedure will improve the safety and efficacy of the vaccination procedure.

The unique isolation facility for the hospitalization of potentially contagious patients was used on 2 different occasions during fiscal year 1979. A senior medical technician was admitted to the isolation suite following an accident in which a stainless steel pin penetrated the skin of a finger while he was working with a partially anesthetized guinea pig exposed 3 weeks earlier to an aerosol of Lassa fever virus. The individual was hospitalized and treated with 200 ml of hyperimmune anti-Lassa fever plasma on the day of the accident. After 21 days in strict isolation, illness failed to develop and the patient was discharged in a healthy state. In another accident, a senior technician was bitten by a squirrel monkey that had been inoculated with the virus of KHF 21 days previously. Because the pathophysiology of KHF is poorly understood, the technician was hospitalized and treated with the hyperimmune anti-KHF plasma on the day of the accident. The patient was discharged 21 days later in a healthy state, again with no emergence of a clinical illness.

Training programs are continually implemented to permit clinical laboratory samples and clinical microbiologic samples to be handled and assayed under the strictest forms of microbiologic containment, by technicians dressed in pressurized whole-body plastic suits with a filtered intake-air supply. The building modification program initiated last year to upgrade the unique ward facilities to permit the care of patients by hospital personnel dressed in protective suits is proceeding but has not been completed.

Vaccine development:

Development of new vaccines constitutes a major requirement in the research mission; this program attempts to create new vaccines against militarily important viruses, with emphasis on arena-viruses, bunyamwera viruses, and the new Ebola/Marburg virus group that produce highly lethal hemorrhagic fevers. The viral vaccine program also includes additional studies on RVF virus, continued work to create an attenuated dengue-1 vaccine, and continued research to improve vaccines for the alphaviruses including VEE, EEE, WEE, and Chikungunya.

Attempts to develop a potent inactivated BHF vaccine in a certifiable substrate were discontinued due to low yields of virus antigen and difficulties in obtaining consistent virus inactivation. In an exciting breakthrough reported last year, the attenuated strain of Junin virus (virulent strains cause Argentine hemorrhagic fever) was found to protect monkeys and laboratory rodents against both the Argentine and Bolivian forms of hemorrhagic fever. Since the attenuated Junin virus, XJ clone 3, has already been used in 600 human recipients in Argentina, this potential vaccine strain and a closely related one were both emphasized during fiscal year 1979. Experiments with inbred as well as outbred guinea pigs have confirmed that continuous passage in mouse brain has attenuated the XJ 44 strain Junin virus to approximately the same degree as that of XJ clone 3. These results indicate that the XJ 44 strain, since it has a defined history, may be certificable as a parent virus for vaccine development. Moreover, adult guinea pigs were shown to be as suitable as the more expensive, less available, primate models for comparative neurovirulence testing prior to final vaccine testing.

Success in cultural methodology for the Ebola hemorrhagic fever virus and the standardization of a guinea pig model represent the initial advances required for the development and testing of a formalinized vaccine against this virus.

In response to a request for assistance by the U.S. Department of Agriculture, the effectiveness of a single dose of human RVF vaccine was demonstrated in sheep. All nonvaccinated sheep challenged with virus developed viremia and several pregnant ewes aborted. None of the vaccinated sheep with significant ($\leq$1:20) anti-RVF serological responses became viremic, and lambs born to the vaccinated ewes showed good titers of maternal antibody to RVF. In human tests, 6 newly prepared lots of RVF vaccine were compared to tested older lots that had been in frozen storage for many years.

Both the new and old lots were shown to be safe and immunogenic. The new lots of vaccine were prepared using procedures which reflect improved technology over those available 10-12 yrs ago when the older vaccine was made.

Studies with selected clones of the dengue-1 virus were continued and additional tests developed to identify virulence "markers" to permit the selection of an avirulent virus subpopulation that could be used as a possible human vaccine. Unfortunately, temperature sensitive mutants isolated thus far, although less virulent than parent strains, were found to have sufficient residual virulence to be nonacceptable for their continued use in dengue-1 vaccine development. Efforts are continuing to find appropriate "markers of virulence" and to use these markers to select new candidate virus seeds for safe and effective dengue-1 vaccines.

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Description of R.D.T. & E. effort	Funds obligated (millions of dollars)			Explanation of obligation
	Prior year	In-house		
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				Human testing of the Rocky Mountain spotted fever vaccine has continued and the vaccine has consistently bee n demonstrated to be safe and immunogenic. This vaccine constitutes a limited but unique resource, because in comparative testing with the old commercial vaccine. it was shown to be significantly better. Moreover, the commercial vaccine was recently withdrawn from the market. Further testing of the vaccine is being planned and coordinated with the NIH. New studies were initiated to develop an attenuated Chikungunya vaccine. Methods were first developed to obtain an accurate plaque assay technique. Improved plaquing technology has led in turn to the effective selection of individual plaques from a heterogenous virus population. Several plaques have been isolated which show great promise as vaccine candidates. Their level of attenuation approaches that which is considered suitable for use in man; i.e., small plaque size, apparent genetric stability, temperature sensitivity and absence of neurovirulence in mice. Preliminary attempts to develop a vaccine to legionnaires' disease, caused by Legionella pneumophila, have been encouragingly successful. Sodium hydroxide extraction of the organism yields a soluble nontoxic antigen which protects mice against lethal challenge. Experiments are underway to determine if this soluble antigen is common to all 6 serotypes of Legionella. The development of a safe and effective vaccine would become extremely important if drug resistance should develop in this gram-negative organism. Another important facet of the vaccine development program includes the need for highly standardized carefully monitored laboratory animal data when experimental vaccines are initially tested. Programs are being developed to comply with the specific provisions of the new Good Laboratory practices regulation, as they will apply to certain studies related to vaccine certification. Extensive record-keeping and quality control animal data will be essential for approval of safety of a new vaccine prior to its initial clinical testing in man. Computerization of all data relative to vaccine schedules and vaccine responses in laboratory workers has facilitated and simplified the entire special immunization procedures program of the Institute. Unnecessary immunizations have been eliminated while the highest levels of protection have been maintained. Vaccine adjuvant studies: A portion of vaccine development research is devoted to the study of potential adjuvants that could improve the immunogenicity of marginally effective vaccines. Adjuvants selected for applied study emphasized those with a potential for eventually being approved for use in man. These included a new metabolizable lipid emulsion, a new muramyl dipeptide-like compound (Pfizer CP 20,961), lysine stablized poly (I)poly(C) [poly (ICLC)], and the enzyme lysozyme. While not approved for use by man, Freund's complete and incomplete adjuvants are included as standards of reference for adjuvant responses in animal studies. The study of adjuvants delivered to target cells through liposomal entrapment has been initiated. The methodology for producing liposomal vaccines is in the early stages of development and is being applied to VEE vaccine in collaboration with WRAIR. Although the technology is complex, this concept may raise vaccine efficacy while reducing undesirable side effects. The metabolizable lipid emulsion was shown to enhance the initial response to VEE vaccine, WEE vaccine and RVF vaccine. Based on the results, a patent application has been submitted for this new product. The adjuvant CP 20,961 was also shown to have significant enhancement of response using RVF vaccine in mice and hamsters when given in doses of 100 μg/kg. In Q fever studies, lysozyme was found to function as an adjuvant to enhance the immunogenicity of the extracted phase I antigen of Coxiella burnetii. Guinea pig protection against challenge was increased 3-4 fold when 25 μg of lysozyme was given subcutaneously 5 hr prior to vaccination. Reactogenicity of the phase I antigen also appeared to be reduced by lysozyme treatment. Preliminary data suggest that the lysozyme may function by inducing or enhancing the cellular immune response. Immunologic responsiveness studies: Almost half of the Institute's resources are devoted to studies which are designed to improve human protection against militarily important diseases, and, in turn, immunological responsiveness studies constitute an important component of this research. These studies include investigations into the relative efficacy of investigational vaccines administered via different routes; the differences or similarities in the responsiveness of cell-mediated immune mechanisms to vaccines versus full-blown infection, or versus infection-plus-early-therapy; the effects of "selective" and general immunosuppression (such as that produced by acute irradiation); the critical immunologic functions of macrophages and lymphocytes; the formation of immune complexes in plasma and their contribution to pathogenesis; and studies devoted to improved understanding of immunologic defense mechanisms of the lung, a significant portal of entry for many of the microbes under study. Because BW defensive systems must anticipate the exposure of troops to an aerosol containing infectious microorganisms or their toxins, research was conducted to determine optimal methods for generating protective immunity on mucosal surfaces throughout the respiratory tract. These included studies of aerosol immunization via the lungs against tularemia and studies of airborne infections with Japanese B encephalitis (JBE) virus in monkeys and mice, and Pseudomonas pseudomallei (melioidosis) infections in mice and hamsters. A prior intranasal treatment with glucan, a nonspecific immunological stimulant, increased survival of rats challenged with aerosols of tularemia or mice exposed to aerosols of P. pseudomallei. Mice surviving an initial infection with JBE virus were solidly protected against rechallenge, but neither killed virus vaccines nor the passive administration of immune serum protected them. Aerosol infections also produced lethal melioidosis in hamsters and squirrel monkeys. Recent results indicate that hamsters are protected against respiratory melioidosis by killed whole-organism vaccines but guinea pigs are not. To evaluate cell-mediated immunity, comparisons between leukocyte-adherence inhibition tests and macrophage migration factor tests were followed during tularemia infection in mice. Other studies in mice identified, through Mishell-Dutton assays, the extent of participation of B- and T-lymphocytes and macrophages in response to vaccination with either live or killed tularemia vaccines. Methods were also devised to quantitate delayed hypersensitivity reactions and to detect the magnitude of "suppressor" or "helper" functions of different transfused lymphocyte populations in mice inoculated with the live, attenuated tularemia vaccine. Protection against highly virulent tularemia organisms appeared to require both B- and T-lymphocyte activity. In other research, extended this year, the participation of cell-mediated immune mechanisms were studied in nude mice because of their congenital lack of thymic functions. This approach was especially valuable in attempting to determine why some of the arenavirus infections were capable of producing delayed lethal encephalitis. Studies using the nude mice led to the conclusion that lethal encephalitis caused by Tacaribe virus was immune-mediated and dependent upon the presence of intact functioning T-lymphocyte mechanisms. In other basic research, macrophages, which represent a first line defense of host resistance, are being studied in several model systems; i.e., attenuated and virulent strains of Francisella tularensis, phase I and II forms of C. burnetti and virulent and attenuated strains of VEE virus. These microorganisms can only reproduce within host cell. The nonstimulated or nonimmunized macrophage can process and kill the attenuated but not the virulent forms of these organisms. This new and basic approach successfully established an effective model for studying F. tularensis/macrophage relationships. It was demonstrated that phagocytosis of opsonized virulent and avirulent F. tularensis by macrophages resulted in sequestration of both strains within lysosomes. Virulence was therefore expressed as an increased resistance to killing within the intralysomal environment of the phagocytic cell. It was demonstrated that the capsule of F. tularensis was not a virulence-determining factor. In certain immunopathogenic aspects of an infectious disease, there is a need to identify soluble immune complexes, including their component parts that are generated by the host in response to either a natural infection or to a deliberate immunization. A complex and sophisticated technology that is reasonably new, isotachophoresis, proved to be successful. IgG, the major host protein response to foreign substances, was isolated rapidly from the many other proteins present in serum and each of the 4 subclasses of IgG antibody were clearly demonstrated and separated. The results were achieved very rapidly, within 15 to 30 min per sample and required very little serum, microgram quantities in microliter volumes. The potential now exists to utilize such measurements as a guide for modifying the antibody pattern obtained following vaccination in order to improve and/or optimize the immune response.

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Description of R.D.T. & E. effort	Funds obligated (millions of dollars)			Explanation of obligation
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				Pathogenesis studies:
				Pathogenesis studies in animal infections are essential for they form the basis for testing new vaccines, diagnostic techniques and therapeutic measures. During fiscal year 1979, USAMRIID successfully developed suitable model infections in laboratory animals for Legionnaires' disease, KHF, Lassa fever, Congo/Crimean hemorrhagic fever, RVF, and infections with arenaviruses less dangerous than Lassa virus, i.e., Pichinde and Tacaribe. In searching for a representative model, especially for such a difficult disease to study as KHF, a large variety of both common and little used laboratory animal species were tested, including some, such as cotton rats, vesper mice, and voles, which were not available commercially and which had to be bred in-house.
				All species of nonhuman primates tested could be infected with KHF virus. However, the development of overt disease seemed to be dependent upon the passage history of the virus used in the experiment. Low passage virus, i.e., less than three cell culture passages, produces disease in squirrel monkeys consistent with KHF in man. Higher passages, 5 or more, induced a subclinical infection but not disease. The KHF virus has now been characterized to be a medium-sized RNA virus averaging 95 nm in diameter and possibly belonging to the Bunyaviridae family.
				Because of the importance of airborne infections in medical defense aspects of the USAMRIID mission, pathogenic patterns of illness produced by aerosolized organisms were studies, including bacterial bronchopneumonias, lobar pneumonias, and the role of the respiratory tract in the pathogenesis of viral diseases such as BHF and Lassa fever which may be disseminated in nature via an airborne mechanism. BHF data indicate that this virus could represent a BW threat to U.S. forces, since it can be disseminated as a small particle aerosol, is relatively stable in aerosol after dissemination, and produces aerosols that are infectious and often lethal for guinea pigs and monkeys. These recent findings amply demonstrate the need for developing effective protective measures for this high-hazard virus; that is, vaccine protection as well as therapeutic modalities. Preliminary studies with Lassa fever virus in an aerosol provided similar results to those obtained with BHF; that is, Lassa fever virus was shown to be stable in aerosol and both infectious and lethal for guinea pigs and monkeys when these species were exposed to Lassa virus aerosols.
				In BHF, the lung was shown to be the primary organ supporting virus replication following an aerosol exposure of guinea pigs; however, by day 13 following exposure, high concentrations of virus were also found in the brain, liver, and spleen. The infected guinea pigs died of apparent primary hemorrhagic disease from 20 to 30 days following infection, and, in this respect, an aerosol exposure confirmed the results achieved by the more conventional parenteral routes of virus inoculation.
				Studies using small particle aerosols of L. pneumophila showed that guinea pigs do not survive an exposure to 10^5 organisms whereas, by intraperitoneal inoculation, the lethal dose requires 30 times more organisms. In additional, the aerosol infecting dose is about 130 organisms, thus indicating that the pathogenesis for the 2 routes of inoculation are probably different. These laboratory data indicate that the organism would be expected to produce high morbidity and low mortality. These results are consistent with other evidence that the disease as experienced in natural outbreaks is transmitted to man by the airborne route.
				Pathogenesis data obtained from these high-hazard virus aerosol research are examples of the unique capability at USAMRIID which has the staff and facilities necessary to safely carryout such studies.
				Additional nonaerosol pathogenesis studies have been conducted to define some of the physiological and biochemical responses that accompany infectious disease. These included studies of body fluid and electrolyte shifts in yellow fever and after cholera toxin or staphylococcus enterotoxin B (SEB) administration to susceptible animals. Recent data indicate that SEB perfused through rabbit intestine exhibits significantly reduced toxicity if contained in a hypotonic solution versus a normotonic or hypertonic one. This finding has direct application to the management of gastrointestinal poisoning. Studies designed to understand the physiological responses to disease have been strengthened by the acquisition of computerized techniques for collecting and recording data from many on-going simultaneous physiologic measurements.
				Biochemical and metabolic methods have also been used to investigate infectious disease mechanisms and the long-term safety of the living vaccine. Published data suggested that the TC-83 VEE vaccine might predispose to the eventual development of diabetes in hamsters or accelerate the onset of diabetes in a mouse strain genetically predisposed to developing diabetes. During this past year, it was demonstrated that the live, attenuated VEE vaccine (TC-83) does not: (a) Replicate in isolated islets of Langerhans; (b) impair glucose stimulated insulin release in hamsters; (c) affect glucose tolerance tests in guinea pigs; (d) become detectable in the pancreases of acutely infected hamsters. While these negative data support the safety of the TC-83 VEE additional studies will be conducted by the Institute.
				Biochemical studies included additional work to define the mechanisms used at the cellular level to provide metabolizable energy for the infected host and to characterize the role of the liver in producing the large variety of new "acute-phase reactant" serum glycoproteins and hepatic metallothioneins during a variety of different infections. The molecular mechanisms accounting for the de novo hepatic production of these specific proteins have been partially defined during the past year.
				Diagnostic studies:
				Diagnostic studies covered several different areas. A major thrust initiated last year to establish and maintain immunologically based diagnostic capabilities for bacterial and virus diseases of special importance to USAMRIID has begun to achieve tangible results. The successful development of improved fluorescent antibody technology, radioimmunoassay (RIA) methods, enzyme-linked immunoabsorbent assay (ELISA), and chemiluminescent-immunoassay (CLIA) techniques were compared with each other, as well as with the more time-consuming and less precise microbiological assay methods. Spot tests on microscopic slides for fluorescent antibody identification of 30 different specific viruses of military importance were prepared, standardized and tested for safety. Slides to test for additional new viruses are currently being developed both in-house and under contract.
				Metabolic and functional alterations in host circulating white blood cells (granulocytes) induced by exposure to potential BW agents are being evaluated as an approach to rapid diagnosis. It was demonstrated that circulating gramulocytes from infected animals emitted chemiluminescence of greater intensity than those from noninfected animals. The enhanced chemiluminescence seems to be due in part to activated biochemical mechanisms in phagocytic cells which involve the generation of "excited" oxygen species. This series of events appears to occur in bacterial infections, but not in the viral ones studied to date. In other studies, biochemical changes in blood platelets were not found to be useful in the early detection of infectious disease and these directions of investigation were discontinued.
				A modified radioimmunoassay (RIA) was developed using staphylococcal protein A as a solid phase immunoabsorbent. The assay has broad application to early diagnosis of bacterial and viral diseases and to vaccine development since the new RIA is more sensitive, less time consuming, and more reliable in the identification of antibodies than most conventional serological assays. The assay has been successfully used to identify militarily important viruses such as VEE, WEE, and, Chikungunya, RVF, Pichinde, and Lassa fever.
				The advances in CLIA technology have been most encouraging, suggesting that this approach can be developed further for the eventual detection of viruses as well as bacteria, and that the achievable sensitivity may permit the detection of as few as 10–100 bacteria or 10^3–10^4 virus plaqueforming units in a specimen. These studies will be useful in collaborative efforts with Chemical-Biological Detection and Alarms Division, Chemical Systems Laboratory, Edgewood Area, Aberdeen Proving Ground.
				Upgrading the capabilities of the clinical laboratory has been emphasized during the past 2 yrs. The professional and technical staffs have been increased in both numbers and qualifications, required items of sophisticated equipment have been purchased, standardized and made operational, and continuous training programs for laboratory technicians have been implemented. Construction has been designed and funded to convert 1 clinical laboratory suite to a P-4 facility. Actual work will begin early in fiscal year 1980. These upgradings will have an important impact on the institute's capabilities to provide rapid and reliable diagnostic services in support of high-hazard viral infections and they will replace currently used temporary expedients.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065-Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)			Explanation of obligation
	Prior year	In-house		
	Current fiscal year	Contract		

Further progress was made on computerizing the various diagnostic approaches of a biochemical nature to determine if disease-induced patterns might emerge which would be of greater diagnostic value than changes in any single biochemical parameter alone. Finally, achievements made in the new technology referenced earlier, isotachophoresis, can be applied to diagnostic problems. This technology is expected to permit the ready detection and isolation of immune antigen-antibody complexes from sera.

Therapy studies:

The Institute continues to pursue a vigorous screening program of antiviral drugs which have previously shown promise by other laboratory groups before they are tested with the highly dangerous viruses studied. An expanded antiviral drug program is being designed. Work has continued on the use of aerosolized antibiotics in pulmonary infections, and on the use of metabolic and physiologic approaches for providing supportive therapy. This latter need is especially important during overwhelming infections, including those complicated by disseminated intravascular coagulation or the development of hepatorenal failure.

A dramatic achievement was the discovery that ribavirin was effective for therapy in animal models for such dangerous infections as those caused by members of the arenavirus group of hemorrhagic diseases, RVF, and possbily yellow fever. Earlier work with the interferon-inducing drug, poly (ICLC) was continued, but the major emphasis was placed on studying the therapeutic effectiveness of ribavirin. While ribavirin was previously found to have prophylactic efficacy, the major new finding showed that it was effective even though treatment was not begun until after the onset of clinical illness due to Machupo virus in monkeys and guinea pigs, Lassa fever in monkeys, RVF infection in mice and hamsters, and to a limited degree, yellow fever infection in monkeys. Work is on-going to determine the localization of ribavirin within the tissues, its basic pharmacology in various animals, and the molecular mechanism of its antiviral activity within cells. Recent data using ribavirin in the treatment of VEE virus infection suggest that the drug does not inhibit viral transcription as previously reported in the literature but interferes with the translation of RNA into proteins by affecting formation of the "cap" structure on the viral RNA genome. The positive results which have been achieved with ribavirin and other antiviral drugs has been coordinated with the antiviral drug program at the NIH.

Studies to extend knowledge in the areas of aerosol therapy of antibiotics indicate that pulmonary concentrations of drugs, such as kanamycin, can reach a therapeutic local concentration without dangerous accumulation in the kidneys. Aerosol therapy was more effective against bronchopneumonia in squirrel monkeys than when the drug was given intramuscularly.

Since antimicrobial agents are not available for all lethal infections, continued emphasis was placed on improving metabolic and physiologic support and correction of any disease-induced imbalances. It proved possible to control many of the infection-induced abnormalities in amino acid, protein, carbohydrate, insulin, free fatty acid, and ketone metabolism during experimental infections by the therapeutic administration of appropriate metabolic substrates. For example, loss of body protein can be prevented by the intravenous or oral infusion of appropriate combinations of amino acids and calories. It was also demonstrated that an infected monkey can utilize intravenous or oral infusion of fat as a major energy substrate. These basic metabolic studies illustrate the point that long-term research studies when implemented with patience and persistence, can reach a payoff point with practical results.

Bacterial toxin studies:

Studies have continued during fiscal year 1979 on the botulinum neurotoxins, anthrax toxins, several staphylococcal enterotoxins, enterotoxins produced by cholera and Shigella species, diphtheria exotoxin, and Pseudomonas exotoxin A and exoenzyme S.

A major new program was initiated last year to produce an improved multivalent botulinum toxoid. An older toxoid vaccine only protects against 5 of the 7 known types of neurotoxin, and causes significant local reactions. This program has made excellent progress. The previously used strains of toxin-producing organisms were obtained and fermentation kinetics and optimum medium formulation for maximum production of type A neurotoxin, in both a 50 l fermentor and a 20 l static culture vessel, were developed. Chromatographic procedures were appropriately modified for the purification of the type A neurotoxin, then scaled-up to purify a large pilot lot of toxin. The purified toxin was successfully toxoided and proved to be a safe and immunogenic vaccine when tested in laboratory animals. Work is progressing with the other types of neurotoxin.

In addition, a program was initiated to collect high titer human antibotulinum plasma from individuals who previously had been immunized repeatedly with the existing polyvalent botulinum toxoid. At this time, 700 l of human immune plasma have been collected and processed under contract. Army as well as the Food and Drug Administration approval was obtained for using this human hyperimmune botulinum plasma for the therapy of acute botulism. In addition, contract arrangements are underway to convert large quantities of this plasma into hyperimmune botulinum immunoglobulin, a procedure that should improve the storage, transport, and administration aspects of antibotulinum therapy.

Studies on anthrax toxins and its protective immunogen had been at a virtual standstill for at least a decade. Last year, the laboratory reentered this field in an attempt to produce a more effective immunogen that could be used in man for production of protective immunity. The currently available vaccine is a crude culture filtrate which requires 18 mo for the primary vaccination series. Anthrax organisms produce at least 3 poorly characterized exoproteins: Protective antigen, edema factor and lethal factor. Optimum fermentation conditions have been reestablished for several strains of Bacillus anthracis. These include gas requirements for sparging, definition of a synthetic medium, control of pH, and the time of incubation to achieve maximum toxin production. The reacquisition of this capability, lost during the past 15 yr, was much more difficult to achieve than expected, in large part because of altered toxigenic responsiveness of the long-stored, previously characterized strains of the bacillus.

Basic investigations continue in an attempt to define tertiary and secondary structures of SEB and its component peptides, and to compare them with comparable portions of SEA and SEC, enterotoxins to establish which portions of the protein molecules are immunogenic and which cause toxicity. In other basic work, the mechanism used by staphylococci to excrete their exoprotein toxins was shown to depend upon the fatty acid composition of external staphylococcal membranes. Evidence was also obtained that a proteinase was required to release the toxin into the culture medium.

Several closely related studies are underway to determine the mechanisms by which bacterial exotoxins are internalized and processed by mammalian cells. The ultimate objective of these studies is to formulate effective countermeasures for a variety of exotoxins. Techiques were developed to assay the internalization and degradation of radiolabeled diphtheria toxin by monkey kidney cells. Using these techniques, the kinetics of internalization and degradation were determined. In pharmacological studies, results obtained thus far indicate that drugs and chemicals that block internalization and/or degradation also protect the cells from the cytotoxic action of the toxin. Certain lysosomotropic agents were particularly effective at both blocking degradation and protecting the cells, indicating the involvement of lysosomes in intoxication.

Immunocytochemical and autoradiographic methods have been used to visualize cell surface receptors for toxins. Pseudomonas exotoxin receptors were shown to be localized in specific membrane regions called "coated pits." This unique finding supports the hypothesis that toxins enter cells by adsorptive endocytosis. Collaborative immunization trials with the glutaraldehyde toxoid of Pseudomonas exotoxin A were begun in burn models to test whether immunization protects against infection. Protection was not observed in rats and was partial in mice Similar trials have been initiated in rabbits and dogs. Previously developed Pseudomonas vaccines have not contained the exotoxin component and have been ineffective in preventing infections.

Rickettsiology research:

As noted earlier, all rickettsial research performed at USAMRIID has been transferred to WRAIR with the exception of Q fever studies. In turn, some arbovirus programs previously conducted at WRAIR are being transferred to USAMRIID. These transfers are a part of a broad program designed to maximize the utilization of facilities and personnel available at each laboratory.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars) Prior year Current fiscal year	In-house Contract	Explanation of obligation
			A previously developed formalin inactivated, phase I Q fever vaccine is being readied for its first human testing to determine if this vaccine is more protective and less reactogenic than the currently available phase II vaccines. Laboratory data which supported the human trial indicated that 1 dose, (30 μg) of phase I antigen given to cynomolgus monkeys protected them 6 and 12 mo later to aerosol challenge with virulent phase I rickettsiae. Infection in the cynomolgus monkey model produces a disease which closely resembles the illness seen in man with comparable interstitial pneumonia, hematologic, physiologic and immunologic responses. In another approach, attempts are being made to isolate purified components of C. burnetii in hopes of identifying specific fractions that are highly immunogenic and less reactogenic. Lysozyme treatment of the phase I antigen seems to function as an adjuvant and reactogenicity at the site of vaccination is reduced. Much more research is required before these Q fever vaccine problems are solved. Summary: This brief review of progress during fiscal year 1979 illustrates many successes from a multidisciplinary approach to fulfillment of the mission of the Institute. Work on many high hazard viral agents has been initiated following an upgrading of biohazard containment in several laboratory suites. Additional upgrading work in progress will allow additional agents to be studied in fiscal year 1930. Human diagnosis and therapy is keeping pace with basic virology and vaccine development. Most obstacles to progress toward applied results must be resolved by advances in very basic studies. For example, improvements in antiviral drugs will probably depend on clearer understanding of the function of viral specific proteins/enzymes at the molecular level, followed by biochemical research to selectively interfere with critical events, followed in turn by the pharmacological studies which convert such basic knowledge into a useable drug. Balanced efforts between pursuit of applied goals and extension of basic knowledge is a characteristic of the current program, with continued interchange, reinforcement, and refinement, a result of having both approaches in the same Institute. In some cases a single investigator is able to function effectively in multiple levels of the basic/applied continuum.
(e) Foreign biological threat	(.000)	(.177)	Exploratory development effort:
	(.177)	(.000)	The objective of this program is to perform operational research studies and systems analysis of the biological threat to the United States and to U.S. military forces throughout the world, its vulnerability to biological attack, and defensive measures that might be employed in the event of such an attack. Studies are being performed and data compiled to provide an estimate of the threat of foreign biologicals and the vulnerability of the United States and U.S. forces. The establishment of proper criteria is essential to the development of adequate warning capabilities. Operation research studies in progress: 1. Assessment of analog criteria and target matching. 2. Biological defense with suboptimal meteorological conditions. 3. Target vulnerability assessment. 4. Assessment of genetic engineering relative to biological threat. 5. Target vulnerability assessment update. 6. Psychological impact of a mass casualty weapon with respect to target vulnerability. 7. Defeat techniques for protective equipment. 8. Assessment of entomological weapons capabilities as a concern in biological defense. 9. The physical environment of the built-up area and biological defense.
(f) Army materiel development tests.	(.000)	(.090)	Efforts are directed toward conducting of pre DT II field tracking using simulant aerosol clouds for equipment evaluation.
	(090)	(.000)	
3. Simulant test program	.000	.000	No effort expended in this area.
	.000	.000	

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of PAA effort	Funds obligated (millions of dollars) Prior year Current fiscal year	In-house Contract	Explanation of obligation
Biological research program	.000	.000	During the fiscal year 1979, the Department of the Army obligated $0 for procurement activities associated with biological defensive equipment and production base projects.
	.000	.000	

SEC. III.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars) Prior year Current fiscal year	In-house Contract	Explanation of obligation
Ordnance program	1.026	6.297	During fiscal year 1979, the Department of the Army obligated $8,609,000 for general research investigations, development and test of smoke/obscurants, riot control agents, and weapon systems and other support equipment. Program area of effort concerned with these obligations are as follows:
	7.583	2.312	Smoke/obscurants program $8,093,000 Riot control program 500,000 Other support programs 0 Test support 16,000 Total obligation 8,609,000

SEC. III.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of PAA effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Ordnance program	7.648	22.222	During the fiscal year 1979, the Department of the Army obligated $27,285,000 for procurement activities associated with smoke/obsurants, riot control agents, weapons systems and other support equipment. Program areas of effort concerned with these obligations were as follows:
	19.637	5.063	Smoke/obscurants program $24,235,000 Riot control program 2,089,000 Other support equipment 961,000

SEC. IV.—ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS, ADJUSTMENT SUMMARY, TO REPORT FOR THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065

SEC. 1—CHEMICAL WARFARE PROGRAM

ADJUSTMENT SUMMARY TO THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978

Page	Description	From—	To—
	SEC. 1—CHEMICAL WARFARE PROGRAM		
	Under explanation of obligations, change figures as follows:		
1	1st line, "Department of the Army obligated"	$28,920,000	$29,179,000
	Lethal chemical program:		
	Exploratory development	887,000	960,000
	Engineering development	1,535,000	1,597,000
	Total lethal chemical	4,355,000	4,490,000
	Defense equipment program:		
	Exploratory development	11,236,000	11,360,000
	Total defense equipment	19,134,000	19,258,000

Page	Description	From—		To—	
		Prior year	In-house	Prior year	In-house
		Current year	Contract	Current year	Contract
	Under funds obligated, change figures as follows:				
7	Lethal chemical program	0.251	4.434	0.251	4.323
7	(a) Agent investigations and weapons concepts	4.104 (.000)	.011 (.876)	4.239 (.000)	.167 (.949)
8	(c) Tactical weapons systems	(.887) (.000)	(.011) (1.535)	(.960) (.000)	(.011) (1.441)
10	Defense equipment program	(1.535) .463	(.000) 15.388	(1.597) .463	(.156) 14.545
17	Medical defense against chemical agents	18.671 (.000)	3.746 (6.324)	18.795 (.000)	4.713 (6.314)
		(6.324)	(.000)	(6.448)	(.134)

SEC. II—BIOLOGICAL RESEARCH PROGRAM

No change to fiscal year 1978 report.

SEC. III—ORDNANCE PROGRAM

Under funds obligated, change figures as follows:

Description	From—	To—
1st line, "Department of the Army obligated"	$7,494,000	$7,776,000

Description	From—		To—	
	Prior year	In-house	Prior year	In-house
	Current year	Contract	Current year	Contract
Ordnance program	.069	6.985	.069	6.679
	7.425	.509	7.707	1.097

Description	From—	To—
Smoke/obscurants program	6,567,000	6,840,000
Riot control program	487,000	496,000

SEC. IV.—ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS, ADJUSTMENT SUMMARY, TO REPORT FOR THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065—Continued

DEPARTMENT OF THE AIR FORCE ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), RCS DD-D.R. & E. (SA) 1065, SEPT 30, 1979

SEC. 1.—OBLIGATION REPORT OF CHEMICAL WARFARE LETHAL AND INCAPACITATING AND DEFENSIVE EQUIPMENT PROGRAMS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065; DEPARTMENT OF THE AIR FORCE; SEPT. 30, 1979

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Defensive equipment program:			
Research	0.000	0.000	
	.000	.000	
Exploratory development	.000	.000	
	.000	.000	
Advanced development	.000	.000	
	.000	.000	
Engineering development	—.250	.000	Development and testing of agent detection devices. Development of chemical-agent hardened structures. Evaluation and development of protection garments and respirators for aircrews and ground support personnel. Chemical-casualty systems development. Discontinuation of agent and equipment development.
	4.488	4.238	
Total defensive	—.250	.000	
	4.488	4.238	

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Chemical warfare program	0.661	0.000	
	3.753	4.414	
Defensive equipment program	.661	.000	
	3.753	4.414	
Protective clothing and equipment.	.661	.000	Obligations used for initial issue of protective clothing and equipment and thereby provide USAF personnel with an initial capability to operate in a toxic chemical environment.
	3.753	4.414	

OBLIGATION REPORT OF OPERATIONS AND MAINTENANCE FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065

Description of operations and maintenance effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Chemical warfare program	0	8.527	
	8.527	0	
Defensive equipment program	0	8.527	
	8.527	0	
Protective clothing and equipment.	0	8.527	Obligations used to complete initial issue of protective clothing and equipment and thereby provide USAF personnel with an initial capability to operate in a toxic chemical environment.
	8.527	0	

SEC. 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT .30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065; SEPT. 30, 1979—NEGATIVE

SEC. IV.—ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS ADJUSTMENT SUMMARY, TO REPORT FOR THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065—Continued

DEPARTMENT OF THE AIR FORCE ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), RCS DD-D.R. & E. (SA) 1065, SEPT. 30, 1979

SEC. 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065; SEPT. 30, 1979

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Ordnance program:			
Research	0.000	0.000	
	.000	.000	
Exporatory development	.000	.000	
	.000	.000	
Advanced development	.000	.000	
	.000	.000	
Engineering development	.013	.114	The Big Eye binary chemical munition is a joint development program with the Navy acting as lead service. The Air Force tests and certifies the weapon's compatibility with selected Air Force aircraft.
	.101	.000	
Total ordnance obligations	.013	.114	
	.101	.000	

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE NAVY; DATE OF REPORT: SEPT 30, 1979; RCS DD-D.R. & E. (A) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
1. Chemical warfare program	0	0.896	During the period Oct. 1, 1978 through Sept. 30, 1979, the Navy obligated $1,599,000 for research and development efforts.
	1.599	.703	
(a) Defensive equipment program	0	.896	
	1.599	.703	
(1) Exploratory development	0	.184	Funds support: (1) Defense requirements analysis. (2) Navy liaison and coordination with other services in developing CB defensive equipment through a total DOD program. (3) Operational evaluation of XM-29 protective mask for compatibility with shipboard equipment. (4) Development of an advance warning detection and alarm system. (5) Shipboard evaluation of an automatic point detection and alarm system. (6) Evaluation of several candidate shipboard collective protection systems (Canadian, German, British, United States) for U.S. application.
	.274	.090	
(2) Engineering development	0	.712	
	1.325	.613	

SEC. 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065—NEGATIVE

SEC. 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE NAVY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (A) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Ordnance program:			
Engineering development	0	1.700	Big Eye will provide the Navy/Air Force and air delivered persistent nerve agent retaliatory capability. Big Eye is expected to be ready for initial production in late fiscal year 1982; however, production must be authorized by the President and approved by Congress.
	1.700	0	
	0	1.700	
Total ordnance program	1.700	0	

DEMOCRATIC PROGRESS IN TAIWAN

● Mr. GOLDWATER. Mr. President, within recent weeks there have been major announcements by the Republic of China on Taiwan of governmental reforms that will continue to extend democratic practices throughout the nation.

First, on June 11, the President of the Republic, Chiang Ching-kuo announced national parliamentary elections at the end of this year.

Second, on July 1, the Judicial Yuan of Taiwan assumed complete jurisdiction over the Taiwan High Courts and District Courts in accordance with a newly enacted law totally separating courts of law from the Ministry of Justice.

Third, on July 1, a new law took effect allowing private citizens to recover compensation from the Government for damages caused by wrongful conduct of Government employees.

Mr. President, the governmental authorities of the Republic of China are to be congratulated for proceeding with these great steps toward full representative democracy. It is ironic that the first move, the scheduling of parliamentary elections in December, would have occurred earlier had it not been for President Carter's betrayal of Taiwan in 1978. As a result of the uncertainty created by the administration's abrogation of the defense treaty and cancellation of diplomatic ties, previously scheduled elections in the national legislature were postponed.

However, the elections are back on track and, in fact, the number of parliamentary seats has been increased by 70 percent. There will be 76 additional seats in the National Assembly, 96 new seats in the Legislative Yuan, and 32 in the Control Yuan.

If the election had been held in 1978, as originally intended, 52 seats would have been open in the Legislative Yuan, 53 seats in the National Assembly and 15 in the Control Yuan, for a total of 120 seats in the 3 Houses of Parliament. Under the new policy decided on June 11, there will be 97 seats up for election in the Legislative Yuan, 76 seats open in the National Assembly and 32 in the Control Yuan, for a total of 205 seats.

Let me explain that the Legislative Yuan is the official body similar to our Congress. It exercises the legislative power, passing bills and appropriations. It will have a total of 413 seats.

The National Assembly will consist of 1,218 Delegates. It elects the President and Vice President and has power to amend the Constitution.

The Control Yuan is an independent supervisory body whose origin can be traced back to the ancient Chinese censorial administrative system of the Ch'in and Han dynasties of 221 B.C. to 220 A.D. The Control Yuan has power to impeach or censure officers and employees of the executive branch, including the President and Vice President. It possesses the power of investigation and has its own investigating staff of about 200. The Control Yuan also supervises the auditing of budgets and investigates irregularities in financial matters. It will have a total of 72 seats.

The newly elected members of parliament will be sworn into office on February 1, 1981, and will join colleagues who were previously elected. The new elections will revitalize these three bodies with members to be elected in Taiwan.

The second development, the transfer of the high court (equivalent to our circuit court) and district court system to the Judicial Yuan, carries out an interpretation of the Constitution made by the Council of Grand Justices. The latter body is a group of justices who perform duties similar to our Supreme Court, but act only in cases of interpretations of the Constitution or of laws. Other final judicial appeals are taken to the Republic of China Supreme Court.

The new reorganization laws will guarantee the total separation of courts of law from the prosecution of crimes by procurators, government prosecutors who serve under the continental civil law system adopted by the Republic of China.

This development is a breakthrough long awaited within the Republic of China. At the request of the Control Yuan, the Council of Grand Justices ruled in 1960 that the courts should be placed under the jurisdiction of the Judicial Yuan. The adoption of the new laws not only strengthens the independence of the judiciary in Taiwan, but is a solid victory for the independence and effectiveness of the Control Yuan and Council of Grand Justices.

The third change adopted by the Republic of China is a new government tort liability law, which contains 17 articles. This statute is in futherance of article 24 of the ROC Constitution which provides that any public officer or employee who infringes upon the freedom or right of any person shall, in addition to being subject to disciplinary measures, be held responsible under criminal and civil laws. The injured person may, in accordance with the new law, claim compensation from the Government for damages.

The law goes beyond our own Tort Claims Act and is more in the nature of a civil rights statute, placing greater responsibility for agency or departmental abuses of power on bureaucrats.

Mr. President, persons who are familiar with recent Chinese history and institutions will know that these three steps are sweeping in nature and give proof of the strong dedication by the Government on Taiwan to democratic principles. It also demonstrates complete confidence in political stability in Taiwan.

The ever-expanding practice of freedom and economic progress in Taiwan stands in marked contrast with the tyranny and poverty on the Chinese mainland.

Contrary to the fashionable reports of American politicians who visit Communist China, extreme poverty continues to be widespread among the controlled masses on the mainland. Even in the showcase farm communes there is no running water in houses, there are earthen floors and perhaps two or three 15-watt light bulbs.

According to a recent article by Time-Life News Service, the combined husband-wife incomes of the richest family in the richest commune is only $700 a year. Recent reports in the Chinese Communist press indicate that about 200 million rural Chinese may earn less than a cash income of $33 a year, meaning they are barely able to survive. Some day the people of the mainland will realize that their own real hope of human progress is not in the failures of communism, but in the blessings of liberty awaiting them under the decent and uplifting leadership of the Republic of China.●

THE CERTIFIED NURSE-MIDWIFE

● Mr. INOUYE. Mr. President, today I would like to highlight the unique role of the certified nurse-midwife (CNM) in our Nation's health-care system. Although the term "midwife" has been with us for generations, the certified nurse-midwife is a new breed of well-educated, highly trained professional providing service to often underserved populations. In fact, I understand that over one-third of all nurse-midwives are currently working in communities with populations under 30,000.

A certified nurse-midwife is first of all a registered nurse; that is, a graduate of an approved nursing education program that was authorized by the State to prepare persons for licensure. This graduate must then meet various state requirements for licensure in the State in which he or she wishes to practice. Second, he or she must have completed a special course of study ranging from 1 to 2 years, at one of the 25 approved schools located in 18 States in the country. These approved schools are usually affiliated with a university, such as Georgetown, Johns Hopkins, Columbia, and Yale. Finally, he or she must pass a national certification exam. It is primarily due to this rigorous educative process that certified nurse-midwives bear little resemblance to the traditional "granny" midwife who oftentimes are written up in our Nation's newspapers.

The first nurse-midwife program was started in 1925 with the Frontier Nursing Service in Appalachia. They graduated approximately 12 nurses a year. Today, the American College of Nurse-Midwives, which certifies these individuals, has nearly 1,700 members who practice in 42 States and the District of Columbia. This growing profession has doubled its membership over the past 5 years and there are projections of 5,000 nurse-midwives by the year 1990.

Nurse-midwives provide continuous care throughout the process of birth, including prenatal, delivery, and postpartum stages. They teach preparation for labor (LaMaze) classes, do routine examinations and deliveries, and subsequently give instructions in infant care, family planning and family adjustment. As I am sure each of us is aware, the addition of a child to a family unit often creates a stressful environment for family members. The nurse-midwife is quite

aware of this and is expressly prepared to facilitate and counsel the family in integrating the new child into their home.

Nurse-midwives practice in a variety of settings including traditional hospitals, public health departments, private practices with physicians, family planning clinics, and in independent and group practices with other nurse-midwives. It is with the independent and group practice that the need for nurse-midwives to have full hospital admitting privileges becomes paramount.

Physician involvement with the nurse-midwife's management of care of the normal maternity cycle varies from no involvement, to visits at specified intervals and presence in hospital for the delivery. Nurse-midwives use physicians as backup, and what I think is especially important, are trained to determine when a referral is necessary for further medical evaluation.

Unfortunately, our Federal health system, as well as a number of private insurance companies, have been slow in recognizing the independent practice of nurse-midwifery. However, their reimbursement with only minimal physician supervision under the rural health clinics law and their autonomous providership under the Department of Defense's CHAMPUS program, are indeed significant steps forward. I personally am confident that CHAMPUS will find the care provided by nurse-midwives to compare favorably with that delivered by physicians. For example, a report by the Congressional Budget Office reported that physician extenders have performed as well as physicians with respect to patient outcomes, proper diagnoses, frequency of patient hospitalization, manner of drug prescription, documentation of medical findings and patient satisfaction. Practices with nurse practitioners received higher quality of care ratings than all other practices.

Several additional studies have also come to my attention that dramatically demonstrate the effectiveness of nurse-midwives. For example, in Holmes County, Miss., the neonatal mortality rate in 1968 prior to the initiation of the nurse-midwifery program was 28 deaths per 1,000 live births; in 1970, subsequent to the provision of nurse-midwifery services, it was 19.8 and in 1971, it was 7.0. In addition to lower neonatal death rates, there were other positive outcomes associated with nurse-midwifery services:

1. less frequent complications of pregnancy.
2. lower incidence of forcep delivery.
3. higher average birth weight.
4. higher apgar score (means of rating condition of newborn.
5. higher postpartum use of family planning.
6. lower prematurity birth rates.

The Graduate Medical Education National Advisory Committee in April 1979 reported that—

Nurse-midwives are perceived as providing more time and more emotional support to patients than do physicians and are more flexible and responsive to patient preference.

Ultimately, in my judgment, it should be the client's right to choose the health provider of her choice. I am confident that both physicians and certified nurse-midwives will deliver maternity services that are of high quality and safety both for the mother and her baby. I might add in closing, that I was delivered by a nurse-midwife and I have no complaints.●

GEORGE HOWARD, JR.

● Mr. PRYOR. Mr. President, earlier today it was my privilege to recommend to the Judiciary Committee that George Howard, Jr., be confirmed as U.S. district judge for the eastern and western Districts of Arkansas. He is an outstanding individual who will be an asset to the bench. His past judicial and legal experience make him well qualified to assume the duties of a Federal district judge.

I ask that the text of my remarks before the Judiciary Committee be printed in the RECORD.

The text follows:

STATEMENT BY THE HONORABLE DAVID PRYOR

Mr. Chairman I am pleased today to join with my colleague Dale Bumpers in recommending George Howard, Jr., to fill the existing vacancy for the federal judgeship for the Eastern and Western Districts of Arkansas.

Mr. Chairman I have known George Howard for many years. It was my good fortune to be able to reappoint him to the Arkansas State Claims Commission where he rendered exemplary service as its chairman and to appoint him to fill a vacancy on the Arkansas Supreme Court when I served as Governor of our State. He served with distinction in each of these roles.

His judicial acumen has been further recognized by his subsequent appointment to the Arkansas Court of Appeals. I feel equally fortunate today to recommend this outstanding individual and student of the law for this important post in the federal judiciary.

George Howard will bring to the federal bench a wealth of experience and knowledge of the law. He is held in high esteem throughout the legal community for his fairness in its application. And it is widely recognized that any decision bearing his name will be the product of the most thorough examination and scrutiny.

George Howard, Jr., was reared in Pine Bluff Arkansas and received his Juris Doctor from the University of Arkansas Law School at Fayetteville. A member of both the American Bar Association and the Arkansas Bar Association George has served as president of the Jefferson County, Arkansas, Bar Association. His illustrious public service career has included service on the Arkansas Advisory Committee to the U.S. Commission on Civil Rights, for which he served as chairman in the late sixties.

Mr. Chairman, the Eastern District of Arkansas has one of the highest caseloads per judgeship in the nation. George Howard is the caliber of judge needed to help meet the growing judicial demands of this region.

George Howard, Jr., is well respected throughout Arkansas and possesses all those qualities and attributes that we have come to expect from those who sit on the federal bench. Without reservation, I recommend him for confirmation.●

THE FAA NEEDS TO DECIDE ON A METROPOLITAN WASHINGTON AIRPORTS POLICY

● Mr. MATHIAS. Mr. President, several weeks ago I asked my Senate colleagues to join in a resolution urging the Secretary of Transportation and the Federal Aviation Administrator to come to a prompt decision on a proposed Metropolitan Washington airports policy, now before them. I am pleased to be joined in cosponsoring that resolution by Senators WARNER, SARBANES, HARRY F. BYRD, JR., HATFIELD, JAVITS, GRAVEL, BELLMON, and DOMENICI.

In 1979 National Airport handled 64 percent of the commercial jet traffic in the Baltimore-Washington region. Dulles International Airport, the only other FAA-owned and operated airport, handled only 16 percent of the region's commercial jet traffic and Baltimore-Washington International Airport, operated by the Maryland Aviation Administration, handled 20 percent of the region's jet traffic.

Clearly an imbalance exists among the region's three airports in terms of jets and passenger use.

I wish to share with my colleagues a letter from one of my constituents who recently had occasion to use National Airport. I shall submit the letter at the conclusion of my remarks.

The FAA is currently considering a policy which has been before it since 1978, which would acknowledge the over-utilization of National Airport and would take a modest first step toward establishing a more balanced relationship among the three airports of our region, National, Dulles, and BWI.

Our resolution urges an expeditious decision on that policy. I urge my colleagues to join me in Senate Resolution 486.

The letter follows:

UNION-TIDEWATER FINANCIAL COMPANY, INC.,
July 22, 1980.

Senator CHARLES MCC. MATHIAS, JR.,
U.S. Senate,
Washington, D.C.

DEAR MAC: On July 17, 1980, I was booked on National Airlines flight 24 from Charleston, South Carolina to Washington National Airport. This flight was to leave Charleston at 5:15 p.m., fly to Savannah and then back to Washington to arrive at 7:32 p.m.

The flight was late in leaving Charleston and even later leaving Savannah. All things being equal, we would have touched down in Washington approximately one-half hour late.

But guess what? We circled Washington for the better part of an hour because of heavy traffic and thunderstorms. But that is not the last of it. When we landed there was no available pier on which to off-load the passengers and there we sat for almost one hour with the engines humming, the bodies sweating and no information at all as to when we might expect to disembark.

Now I ask you, having arrived at Charleston Airport at 4:30 p.m. and getting into bed at 12:00 Midnight back in Baltimore, "Isn't this a bit much for a tired businessman to go through?" I was a bit hungry too after a light snack that was provided on the plane when the flight indicated "dinner". I should point out that this is not unusual. Let's face it, National Airport is a disaster. The FAA is obviously being subjected by Capitol Hill to bring as many flights into National Airport to suit every politician's travelling whim. But alas, I suppose the only way BWI will be allowed to handle more traffic is after a major disaster has occurred at National and the public outcry will force traffic to be diverted to Baltimore.

Won't you please try to help us tired business travelers?

Very truly yours,

ELIOT.●

THE MONTANA DROUGHT

● Mr. BAUCUS. Mr. President, it is not news to any Senator from the Midwest or West that this year has been the driest and hottest in recent memory. Farmers, ranchers, and businesses in Montana, for example, will lose millions of dollars as a result of this year's drought.

Montana's drought-stricken farm and ranchland stretches across 21 counties—almost the entire eastern third of our State. I toured nine of those counties during the July 4 Senate recess to get a firsthand look at the conditions. Today I would like to report to the Senate on my findings.

Eastern Montana is parched. The ground is dry, cracked, and barren. It is a gray, desolate place right now. Many parts of eastern Montana have received less rain this year than in the 1930's during the worst of the dust bowl years.

THE CASUALTY LIST

According to the Agricultural Stabilization and Conservation Service (ASCS), 95 percent of the farmers and ranchers in these 21 counties have suffered losses because of the drought.

In McCone County, Mont., for example, normal rainfall each year is 14 inches. This year, 2 inches fell. In Dawson County just to the south, normal rainfall is 13 inches. During the past 12 months, only 3½ inches have fallen. Prairie County has received just slightly more than a quarter of what it normally receives. Sheridan County has received only one-fifth of its normal level of precipitation.

What made matters worse is that there was very little snowpack this winter.

The ASCS disaster damage report filed 3 weeks ago estimates that several counties will lose virtually all their wheat, barley, and hay crops this year. A few examples tell the story:

Carter County has lost 85 percent of its wheat, barley, and hay crops;

Fallon County has lost all its hay crop and 90 percent of its wheat and barley crops;

Prairie County will lose 80 percent of its wheat and barley;

Richland County will lose 95 percent of its wheat, barley, and oats and virtually all the hay crop from dryland farms.

I walked through several fields of winter wheat that would have been—under normal circumstances—just about ready for harvest. But instead of a 30-bushel per acre crop, thin, immature stalks were scattered through the fields. Some farmers have already plowed their crops under; others had let their cattle graze on the fields. In one field I looked for 15 minutes before finding a stalk that held a wheat kernel. One local ASCS official described conditions this year as the worst he has ever seen in the 22 years he has worked for ASCS.

Likewise, Montana's ranchers have been hard hit by the drought. Hay prices have skyrocketed to over $100 a ton. Pastures, normally used for grazing at this time of the year have been dried up by the summer sun. Ranchers are forced either to sell their cattle, or move them hundreds of miles to other grazing areas or to purchase expensive feeds and feed supplements.

Rather than pay these added costs, many livestock producers are selling their cattle. This disruption of the normal cycle will most likely result in a glut of beef on the market in the near future followed by shortages and higher prices as ranchers replenish their herds.

THE ECONOMIC EFFECTS

All this is having a devastating effect on the economy of eastern Montana's small communities. Everywhere business is way down. Merchants say no one is buying much more than what is absolutely necessary. The combination of high interest rates in recent months plus the failure of this year's crop has forced some businesses into bankruptcy.

One businessman—a farm machinery dealer—said that unless he sells a $96,000 combine before the fall, he will have to buy it himself.

Making matters worse, because farmers and ranchers will have little cash crop this year, they are increasingly turning to local banks probably for additional money to pay operating expenses. I was told that banks probably have loaned out 80 percent of their available funds.

Many farmers and ranchers face the prospect of going even more in debt to make it through this year.

Conditions were best summed up by one farmer who said, "We'll make it through this year but if this happens again next year, we're through. There will be so many auctions you won't be able to get to them all."

SUGGESTED REMEDIAL ACTIONS

There are several actions the Federal Government should take that would provide badly needed help for farmers and ranchers.

First, I have urged Agriculture Secretary Bergland to increase the subsidy provided by the emergency feed program from 2- to 3-cents per pound of feed equivalent. At 2 cents per pound ranchers receive about $25 per ton of hay—hay they purchase for roughly $100 per ton. Increasing the subsidy by 1 cent would provide another $15.

Second, some sort of cost-sharing arrangement should be implemented to ease the burden of transporting hay to livestock producers and to reduce the cost of shipping cattle from the feedlot to market. This can be set up only if the President officially declares a disaster and directs that a cost-sharing program be created. I have urged the White House Domestic Council to make that recommendation.

These programs, along with those already in operation, should provide some margin of relief for Montana's drought-stricken farmers and ranchers.

Montana's farmers are somewhat philosophical about all this. They know there is little they can do to bring more rain to their crops. They know that we in Congress cannot legislate rain.

But they also know that Congress does have responsibility for creating circumstances that are making an already bad situation much worse. It is these man-made disasters such as excessively high freight rates on grain shipments, the Russian grain embargo, and prices that are not high enough to cover the production cost that make them mad.

These conditions are under our control; and failure to take corrective action is only driving farmers and ranchers closer to the brink of bankruptcy.

POSSIBLE CHANGES TO THE FARM PROGRAM

Next year Congress will begin hearings that will lead to changes in the Food and Agriculture Act of 1977. The conversations I have held with eastern Montana farmers and ranchers lead me to conclude that several major changes must be made in this Nation's farm program.

First, some mechanism must be devised to bring prices in line with production costs. The USDA has just released its production cost projections for 1980. These estimates indicate that Montana's wheat farmers will pay $5 per bushel to produce wheat that they could sell on today's market for around $3.65.

Something must be done to correct this inequity. Earlier this week, the USDA raised the loan rates on wheat from $2.50 to $3. This action helps establish a floor for prices, but does nothing to insure that prices enable farmers to pay production costs and earn a reasonable profit.

Second, many Montanans report that marginal land—land that is not likely to produce much grain—is being broken and planted. Farmers say this could result in additional erosion, a serious threat in such a dry year, and that these farmers are only out to make a quick buck. Yet, these same farmers are eligible for deficiency payments and for disaster payments from the Federal Government. I do not think that is good public policy and will work to see that it is changed.

Earlier this year I discussed other changes I will recommend when the Senate begins these hearings. These changes would correct some of the problems farmers and ranchers face today.

There also are steps Congress can take now to improve conditions for farmers. First, the Russian grain embargo should be lifted. I have cosponsored legislation that would accomplish this goal, and I urge the Senate to act quickly on that bill.

The President did not embargo steel exports. He did not embargo textile exports, nor did he stop automobile exports. Instead, the President chose to embargo the one product America produces better and more efficiently than any other nation in the world.

Finally, long-term steps must be taken to lower the excessive freight rates Montana farmers are paying to ship their grain. Earlier this year, the Interstate Commerce Commission permitted a 4.50-percent increase in freight rates. Just last month they permitted another 6.58-percent increase.

And, there is no incentive for the one railroad providing service to Montana's farmers and ranchers to reduce their rates. Without effective rail competition in our State, rates will only continue to go higher. Right now it costs more for

Montana farmers to ship wheat to the west coast than to ship it to Japan from coastal ports. That is just simply unfair, and I am prepared to make every effort to hold up the confirmation of any ICC nominee until we get some relief.

Following is an article which appeared in the Great Falls Tribune on July 28 outlining one of the many problems caused by the drought conditions in Montana:

HEAVY CATTLE SALES RESULT FROM DROUGHT

(By Charles S. Johnson)

HELENA.—Drought conditions in eastern Montana have forced many ranchers to sell their cattle early or move them to pastures in western Montana or other states.

With parched pastures and hay prices running twice the normal rate, more cattle sales are anticipated in the coming weeks, according to interviews with ranchers, livestock trade associations, auction yard owners and government officials.

"They're selling a lot of cattle out there," said Les Graham, administrator of the Brands Enforcement Division of the state Livestock Department.

Graham, who was raised in the Miles City area, said he's never seen anything like it before.

"When you go through that country, the cattle numbers just aren't there," he said.

His views were confirmed by auction yard owners.

Total cattle sales in all Montana auction yards were running nearly 50,000 head higher than last year through July 1, according to Patrick Goggins, who owns the Public Auction Yards in Billings. Sales totaled about 373,000 through July 1, he said, compared with about 327,000 last year.

Most of the increase can be attributed to the drought, he said.

Bob Fjeldheim, owner of Glasgow Livestock Sales Co., said he expects to see a large number of cattle being sold in the next two weeks.

It's too late for ranchers to move their cattle to greener pastures so many probably will liquidate large numbers of their herds, he said.

Fjeldheim expects large numbers of cattle to be sold in September and October, while November is usually the big month for sales at his auction yard.

One rancher who decided to move some of his cattle to another state was Bill Cornwell, who ranches west of Glasgow.

Beginning in mid-June, he hauled more than 700 head to the Rock Springs area in Wyoming, a drive of more than 800 miles that takes at least 24 hours. He can haul about 40 head of cattle and their mothers in a single load.

Cornwell figures he's made at least 20 trips at the cost of $1.75 a mile per trip.

"It's pretty costly," he admitted but added that the other option—disposing of his herd—was unacceptable.

He said he hopes to keep the cattle in Wyoming over the winter and bring them back to the Glasgow area next year.

In the 87-year history of the ranch, Cornwell said his family has never before had to rent a pasture in another state.

No statistics were available at this time as to how many cattle have been shipped from eastern Montana to other parts of Montana or to such states as Wyoming, Nebraska and Colorado.

Dean Prosser of the Wyoming Stockgrowers Association said he has heard estimates that up to 25,000 cattle have been moved into Wyoming from Montana and the Dakotas this summer.

It is difficult, however, to determine how much of the movement can be attributed to the drought. As Dr. Russell Burgess, assistant state veterinarian in Wyoming, said, "We get a lot of cattle from Montana routinely."

Meanwhile, those ranchers with bare pastures who want to keep their cattle and not move them are being forced to pay previously unheard of prices for hay.

Prices of $100 a ton, more than double the normal rate, are "not out of the ballpark," according to Cornwell.

Fjeldheim said he has heard of prices ranging from $80 to $110 a ton for hay.

Some hay is going for $60–$70 a ton at the ranch, which means the cost of hauling must be added, Goggings said.

Graham's family paid $80 a ton, and he said, "really good, clean-type hay" might be costing up to $100 a ton in some parts of the state. He predicted prices would rise even higher if Montana experiences a hard winter.

Because of the lack of pasture and inadequate hay supplies, the state Department of Agriculture has been working with the Cooperative Extension Service at Montana State University to set up a clearinghouse for hay and pasture availability.

The clearinghouse will use the Agnet communication system sponsored by the Old West Regional Commission, according to W. Gordon McOmber, director of the state Agriculture Department.

Persons wishing to sell hay or with pastures to lease may list them with the Agent system by contacting their county agents or phoning the Extension Service in Bozeman at 994–2580.

Livestock producers may obtain the listing of hay for sale or pastures for rent by contacting their county agents and asking for the Agent hay and pasture list.

Although the state hay carryover from the 1979 crop was large, poor pasture and range conditions in parts of Montana have forced many ranchers to feed hay most of the summer. This has led to a reduction of the feed supply available for the winter.

In addition, ranchers from Washington and Oregon, whose crops have been contaminated with volcanic ash from Mount St. Helens, have shown increased interest in buying hay from western Montana, he said.●

PROPOSED ARMS SALES

● Mr. PELL. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH), I wish to state that 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 stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The information follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

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. 80–74, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $96.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–74]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major defense equipment*, $0.0 million; Other, $96.8 million; Total, $96.8 million.

(iii) Description of articles or services offered: One hundred fifty eight (158) conversion kits.

(iv) Military department: Army (VBG).

(v) Sales commission, fee, etc. paid, offered or ageed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report. Case not included in section 28 report.

(viii) Date report delivered to Congress: 29 July 1980.

DEFENSE SECURITY,
ASSISTANCE, AGENCY,
Washington, D.C., July 29, 1980.

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. 80–85, concerning the Department of the Air Force's proposed Letter of Offer to Tunisia for defense articles and services estimated to cost $24.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–85]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Tunisia.

(ii) Total estimated value: Major defense equipment*, $23.6 million; other $1.0 million; total, $24.6 million.

(iii) Description of articles or services offered: One C–130H aircraft with logistical support and training.

(iv) Military department: Air Force (SBA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case included in report for quarter ending 31 March 1980.

(viii) Date report delivered to Congress: 29 July 1980.●

R. & D.: A KEY TO PRODUCTIVITY

● Mr. RIBICOFF. Mr. President, the Organization for Economic Cooperation and Development (OECD) has a unique

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

global scale. The OECD will soon release a major new study entitled Technical Change and Economic Policy. A summary was printed in the May edition of the OECD Observer. It analyzes the relationship between R. & D. and productivity to improve the standard of living in industrial societies. We must give careful attention to proposals to stimulate research and development if the United States is to successfully meet the challenges of economic interdependence. This article raises a number of issues about the type and direction of R. & D. efforts necessary for stable growth.

I submit excerpts from this article for printing in the RECORD.

TECHNICAL CHANGE AND ECONOMIC POLICY

(By Jean-Jacques Salomon, Special Adviser to OECD's Directorate for Science, Technology and Industry)

The connection between scientific research, technological development and economic growth is readily accepted today. But it is not easy to describe because the interactions are complex and not amenable to quantitative measurement with presently available tools.

The only reliable data are the statistics on investment in research and development, but they measure input rather than results. Current attempts to widen the range of "scientific and technical indicators"—counting patents, analysing the production and diffusion of innovations, correlating R. & D. efforts with productivity growth—are still in their infancy: nor can hard and fast generalisations be drawn from the micro-economic studies carried out at the level of the firm or industry.

When it comes to economic policy, technical progress is generally treated as an exogenous variable, and it is assumed that the problems of technical change and innovation will be resolved by growth in demand. It is assumed that when the economy prospers—and because of that—conditions for technical change are optimal.

But what happens when, as at present, economic growth starts to lose momentum, flattens out or even approaches zero in some countries including some of the most highly industrialized ones? Can technical progress still be taken for granted, independent of the constraints that burden the economy? Conversely, are the economy's chances of breaking free from these constraints not narrowed by the disruption in the rate and direction of technical change? In a period of crisis is it not something of a delusion to expect a recovery in demand to stimulate technical change, when the inadequate rate of technical change may itself be one of the long-term sources of the stagnation?

DISCONTINUITY, MUTATION OR ADAPTATION

These were some of the questions asked by the group of experts of OECD's Committee for Scientific and Technological Policy. Headed by Bernard Delapalme, research director of France's Elf-Erap, the group comprised leading figures from industry and the universities most of whom have been associated, either directly or in an advisory capacity, with economic or science and technology policy-making. The group's work was based on sectoral studies designed to identify, first, the impact of the past decade's economic and social changes on research and innovation and, second, the circumstances in which such activities can help our economies overcome the difficulties they are up against.[1]

Ten years after OECD sponsored the Brooks Report, Science Growth and Society, this is a fresh attempt to evaluate science and technology policies, an evaluation based on the role of research and innovation in a very different economic and social context: as the report notes "after thirty years of rapid, indeed unprecedented development, where sustained growth proceeded in step with full employment, there is now uncertainty not only regarding the rate of growth which can be achieved, but also the capacity of conventional policy instruments to reduce inflation and unemployment at the same time. Discontinuity, mutation, a period of adjustment or a long-term crisis: the description of the change varies according to one's explanation of its causes and consequences."

STRUCTURAL PROBLEMS AND UNCERTAINTY

On this point, the group rejected from the outset the conjunctural interpretation of recent events, the view that turbulence in our economies is simply a temporary disequilibrium which can be overcome by applying orthodox economic policy measures. Investigating the links between the economy and the research-innovation system, which are necessarily of a long-term nature, inevitably leads to an examination of structural problems.

Furthermore, the group started work at a time when most interpretations of recent changes were dominated by the "exogenous" changes and in particular the oil crisis of the early 1970s. But the persistence of the difficulties and of uncertainty led its members to look beyond short-term fluctuations to see the changes in economic structures and social relations as a fundamental transformation.

"The real explanation of the present situation must be sought, we feel, in a set of factors which have influenced our societies at least since the late 1960s." 1971, the year in which the United States decided to impose a surcharge on imports and to suspend dollar convertibility, is seen to have symbolic significance, as the end of the post-war period in international economic relations; but the changes have earlier roots and structural repercussions which go well beyond. These changes can be classified into four broad, overlapping groups which are interrelated and influence each other both as cause and effect. Together they constitute the new economic and social context:

The slowdown in economic growth and the persistence of unemployment and inflation together.

The new distribution of economic and industrial power: within the OECD area where the role of "locomotive" in the world economy no longer belongs exclusively to the United States but is shared with Japan and Western Europe (especially Germany); and outside the OECD area where some developing countries have attained a stage of industrialization which now enables them to play a more important role in the world market.

The oil crisis and the successive increases in oil prices, which are now determined more openly than ever by political as much as economic considerations.

The emergence of new social values and aspirations, as shown by the increased importance of social goods and services in the demands made on the economic system, the importance attached to protecting the environment, changes in attitudes to work, and a more critical assessment of science and technology.

Electronics is a spectacular exception; it has constantly increased its innovation potential. Since 1975/76 we have seen what has come to be known as the "micro electronics revolution". For example, the capabilities of one of the first electronic computers (ENIAC) built in the 1940s for several million dollars could be produced in 1978 for less than 100 dollars in a micro computer which calculates 20 times faster, is 10,000 times more reliable, requires 56,000 times less power and 300,000 times less space. Such radical innovations are bound to have pervasive effects—in data processing (computing, control, storage, etc.), in manufacturing and in the services as well. Like electricity this is a technology which will influence innovations in almost all sectors (machine tools, for instance, with the spread of numerical control by computer).

In contrast to electronics, innovation in other science-based industries can be said to have slowed down. In pharmaceuticals, pesticides and bulk chemicals for example, more stringent safety and environmental standards have had a considerable impact on costs and the rate of innovation. The number of new chemical entities marketed in the United States fell by about half between 1960 and 1973 while the cost of developing and testing a major new pharmaceutical increased from about $1.2 million in 1962 to about $24 million in 1974 and to $54 million in 1976 (current prices).

This combination of changes points to an uncertain world where long-term prospects have become obscure and medium-term methods of analysis provide no clearcut answers. Some people are even wondering whether the rules of the game—if not the game itself—have not changed: "It is now common practice to note the limits of conventional indicators of economic growth which point to progress without taking into account the social and human costs involved or which even count such costs as benefits. But one might just as easily question the validity of the practices used when the situation in which they are applied is itself new."

THE TECHNOLOGICAL STAKE

Technical change is no more immutable than economic growth. The constraints of the new context require an adjustment in the system of research and innovation since they both impose new demands on and provide new opportunities for it.

For instance, competition from the industrialising countries calls for the OECD countries to initiate a continuous process of change in the composition of output so as to replace those products which the developing countries have begun to produce for themselves or to export. "In this sense, intellectual capital—scientific resources and the aptitude for technological innovation—constitutes the major asset of industrialised countries in the new modes of international competition and interdependence."

The industrial structure of all OECD countries was based on a certain range of relative costs of the factors of production. These factor costs have been upset by increases in the price of oil. It has become imperative to re-structure the existing industrial apparatus to take account of this new system of factor costs. The new constraints of the energy market make it necesary to save energy, to recycle waste and to speed up the development of new energy sources. Simi-

[1] Four sectors (electronics, machine tools, pharmaceuticals and fertilizers and pesticides) were reviewed, and a statistical analysis of growth trends in labour productivity was also carried out. These studies, published separately from the group's general report, can be obtained from OECD.

larly, to meet the new social aspirations, innovations are required in the service sector, especially technologies which can improve living and working conditions—areas relatively untouched by the technological evolution that has so profoundly transformed agriculture and manufacturing.

THE UPS AND DOWNS OF INNOVATION

How has the system of research and innovation reacted to the turbulence of the last decade? There are many indications that it has suffered from the changes in the economic and social context, and this is confirmed by the sectoral studies. There has been an increase in industrial R & D in Japan and Europe and a relative decline in the United States. For most countries the rate of innovation has slackened, process innovations outnumber product innovations, and research—the cost of which has risen steadily—has been oriented to short-term, low-risk projects. Complaints are heard to the effect that excessive regulation is hampering innovation and that time is spent on paperwork rather than research. As industry cuts back on long-term projects, fundamental research in universities has slowed its rate of increase appreciably.

In contrast to the 1960s when technical change was maintained at the same rate on almost every front, innovation in the 1970s varied widely from sector to sector. In electronics and bio-engineering, breakthroughs are constantly being made (computers/telecommunications, word processing and automation of industry, management and information processing; biotechnologies which will apply fermentation and genetic modification to industry and agriculture). But many other sectors until now regarded as strongly innovative seem to be marking time or losing momentum. For research findings to be applied or innovations introduced and diffused, industry needs investment funds or access to venture capital, and this has been sharply restricted by current economic difficulties.

These trends, which of course vary from industry to industry, are indicative of the changes that have occurred in the rate and direction of technical change, which in turn have affected general economic conditions. "A number of earlier business-cycle theorists such as Schumpeter asserted that investment booms, rapid productivity growth and prosperity were associated with surges of innovation, and that economic stagnation was associated with the drying up of investment opportunities in the absence of innovation." But these theories assumed a basically passive government role in regulating overall demand and supply balance. Now that governments have adopted extremely active policies in this area, what is the interaction between these economic policies and the functioning of the scientific and technical system?

TECHNICAL PROGRESS, ECONOMIC EXPANSION

To answer this question, the experts examined three variables—productivity, prices and employment—and touch upon the central theme of their report: it is more vital than ever to link science and technology policies to economic and social policies if the rate and nature of technical change have a considerable impact on the structure of employment and the level of prices. "Just as rapid technical advance generates expansive economic conditions, an expansive economic environment provides stimulus and support for rapid technical advance."

There is a reasonably close relationship between productivity growth in a given industry and R & D financed by the industry itself or its suppliers. Broadly speaking, productivity has grown fastest in sectors which spend considerable amounts on R & D (such as chemicals) or buy equipment from firms having large expenditures of this kind (such as air transport).

But this observation is merely an empirical one, not a statistical correlation. At sectoral level neither the number of inventions nor a fortiori R & D expenditures indicate anything about changes in productivity; these result not from the innovations themselves, but from their diffusion. More generally a correlation between R & D spending and productivity growth is hard to demonstrate since one would also have to take into account other factors—technical, economic and social—which accompany the diffusion of innovations.

Moreover science and technology may make their contribution not only by increasing capital investment, but also by improving the quality of goods and services. Such improvements are not taken into account in the statistics on GNP or productivity. (A new drug, for example, may be more effective than the one it replaces but cost the same). This means that scientific and technical activities cannot be separated from the other sources of GNP growth; nor can GNP alone measure the full impact of these activities.

Subject to these reservations, technical advance is quite clearly an essential component of productivity growth. For example those countries which have had the most rapid productivity growth since 1960—Japan, Germany and France—are also those which have significantly increased their ratio of R & D to GNP (if defense R & D is left out of the calculation).

1. GOVERNMENT-FINANCED EXPENDITURE ON R. & D. BY SOCIOECONOMIC OBJECTIVES (1977)

[1/10,000 of GNP]

Objective	Canada	France	Germany	Italy	Netherlands	Switzerland	United Kingdom	United States
General advancement of knowledge	8.6	26.8	50.5	15.4	52.5	12.4	24.0	5.3
Agriculture	10.4	4.3	2.2	1.5	7.6	4.7	4.9	2.8
Health	4.1	4.9	3.9	1.4	6.2	.7	2.3	14.0
Defense	3.1	30.6	13.4	1.9	3.0	5.8	57.6	65.8
Civilian industry	11.6	25.9	25.6	17.1	12.7	6.0	16.8	31.3
Of which:								
Industrial growth	7.7	11.6	7.7	4.1	4.8	1.0	5.7	.6
Production of energy	3.9	8.9	13.2	9.5	4.9	3.3	8.2	14.7
Civil space		5.4	4.6	3.5	3.0	1.7	2.9	16.0
Quality of life	8.9	10.8	11.5	2.7	12.8	5.0	6.1	15.0
Of which:								
Transport and telecommunications	1.9	3.4	1.6	.2	1.8	2.0	.7	4.1
Urban and rural planning	.3	1.6	1.4	.5	4.4	.3	2.1	.6
Environment protection	.7	1.0	1.5	.3	NA	1.5	.9	3.8
Social development and services	3.7	1.5	4.8	.8	5.2	.9	1.3	2.9
Earth and atmosphere	2.3	3.3	2.2	.3	1.4	.3	1.1	3.6

Source: OECD.

3. PER CAPITA INDUSTRY-FINANCED EXPENDITURE ON R. & D.

	1967		1975	
	In million United States dollars [1]	United States = 100	In million United States dollars	United States = 100
Belgium	20.5	43.9	(26.5)	(50.9)
Canada	16.5	35.3	15.2	29.2
France	22.2	47.5	28.4	54.5
Germany	36.9	79.0	49.1	94.2
Italy	8.6	18.4	11.9	22.8
Japan	22.4	48.1	37.9	72.7
Netherlands	37.6	80.5	36.3	69.7
Sweden	30.3	64.2	50.2	96.4
Switzerland	(45.5)	(97.5)	62.0	119.0
United Kingdom	36.6	78.4	33.1	63.5
United States	46.7	100.0	52.1	100.0

[1] At 1970 prices and adjusted exchange rates.

Source: OECD.

4. U.S. INDUSTRIAL R. & D.—CHANGING DIRECTIONS OF EXPENDITURE IN THE 1970'S

	Percentage of industrial R. & D. devoted to—			Percentage of total sales expected from new products in 4 yrs' time
	New products	Improving existing products	New processes	
1971	(42)	(46)	(12)	16
1973	(38)	(44)	(18)	13
1974	36	50	14	14
1975	33	53	14	15
1976	29	58	13	13
1977	26	57	17	14
1978	34	42	24	13

Note: Data for 1971 and 1973 are not strictly comparable to data collected for subsequent years. They show percentage distribution of companies according to the main purpose of their R. & D. activities. Thereafter the percentage distributions reflect expenditure patterns.

Source: McGraw Hill, Business Plans for Research and Development Expenditures, New York.

Data on productivity growth indicate that, after the very rapid increase of the 1950s, there was a leveling-off in most countries or even a decline beginning in the late 1960s (with significant differences between sectors, of course). After 1973 a falling off in productivity or a persistent slowdown was the rule. What lies behind this break in trend?

PRODUCTIVITY AND PRICES

"Economists agree on a list of factors but are not in full agreement regarding the weights to assign to each, or upon the fundamental mechanisms of causation", the report notes. It is useless, the report adds, to assign specific weights to the various contributory factors: demographic changes in the composition of the workforce; a shift in the allocation of the workforce away from high productivity industries to the service sector where productivity growth seems to be lower (and is admittedly more difficult to measure); inflationary recession after the 1973 oil-price rise, etc.

In particular, the reinforcement of environmental and safety regulations has necessitated investment and industrial R & D of a kind which may have slowed down the growth of productivity as measured. But it is important to recognise that these shifts in resource allocation were the very object of the regulations and that they reflect a change in social and private values. "A broader method of assessing the net social benefits of economic activity than on the basis of GNP would have revealed less of a decline in productivity growth. But GNP, as we measure it, does not directly value environmental quality or safety, and these shifts in resources therefore show up in the decline in measured productivity growth."

The report adds another factor, the restrictive fiscal and monetary policies applied since 1973 to counter inflation and balance-of-payments deficits. There can be a dilemma between the needs of macro-economic and technological policies. Restrictions on demand growth has discouraged physical investment, curbed the rate at which new technologies are introduced and damped down the incentives to carry out R & D while the deceleration of productivity growth has cut the size of the product to be shared out and hence reduced the impact of the anti-inflationary measures.

How can one assess whether the un-measured costs of technical advance outweigh its un-measured benefits? This question, posed at several points in their analysis, is raised by the experts in the context of inflation. For if the cost-of-living index more adequately reflected certain improvements in the quality of the product or in the quality of the environment—which it does not—the price increase to be fed into escalator clauses would be less, and politicians would be less concerned about inflation and less prone to draw in the economic reins, since measured inflation would be less. We are not denying here that inflation is a serious problem in the OECD countries, the experts insist. "We ask consideration, however, of the possibility that our instruments for measuring the problem may in fact magnify it."

Technical change may of course also be inflationary if it means the introduction of technologies which have only minimal real benefits as compared to their costs: certain kinds of hospital equipment are cited as a recent example.

Finally, the increase in R & D costs of the last decade may spur inflationary pressures—directly, by increasing the R & D costs that need to be amortized over the life of a new product or process, or indirectly by damping down the rate of technical progress.

TECHNICAL CHANGE AND EMPLOYMENT

There are numerous signs that there is now a strong bias towards capital-using technologies rather than labour-using ones. The capital-intensive micro-electronic revolution (micro-processors, micro-computers, etc.) with its favourable growth prospects can of course contribute to a rapid increase in demand, boost investment and, as it spreads through the economy, help those sectors to adjust where productivity is low. But there is also a dark side to the picture which suggests proceeding with caution.

In all the industrialized countries, employment in agriculture has continued to decline while farm output has continued to increase. In industry, the number of jobs expanded substantially during the 1950s, and fluctuated during the 1960s, but over the last decade a trend towards stagnating or even declining employment can be discerned. Only in the service sector has employment increased. Are these trends likely to persist in the 1980s? The answer, says the report, will depend mainly on whether or not OECD countries are able to relax their policies of demand growth restriction. But there are other factors which must be taken into account when considering the prospects for any resumption of employment growth in industry: the relative capital intensity of the various sectors, the rate of introduction of more capital-intensive techniques and changes in the international distribution of industry.

However, if the service sector is to be the source of the new jobs, technical change must proceed at a pace and in directions which will ensure that the new activities offset the displacement or elimination of jobs. But the information sector which accounts for an important part of the services is highly vulnerable to the impact of the micro-electronic revolution, and technical change may, in the medium term, have adverse effects on employment in that sector.

"The higher society's standard of living, the smaller the proportion of the labour force which must be employed to produce those goods and services which satisfy the essential needs of the population", the report notes. "The sectors which satisfy other needs must therefore make it possible to offset any reduction in the level of employment in the essential manufacturing industries. If this is correct, it must mean not the loss or absence of employment but the creation of an increasing number of new occupations and leisure activities. Two questions therefore arise: to what extent the growth of the service sector will compensate and even over-compensate, for the reduction in the labour force in manufacturing, a process similar to that experienced in the transfer of employment from agriculture to industry; and in what conditions technical progress will modify the very nature of work and leisure by creating activities and occupations increasingly remote from traditional production tasks."

Thus, what will happen in the coming decade is an open question. The experts take neither a pessimistic nor an optimistic view but emphasize that demand management policies, though necessary, are not sufficient to solve the structural problems which prevent conventional policies from being effective. Conversely, technical innovation, far from being peripheral, is central to the solution of these problems and can facilitate the use of demand management policies.

"Historical performance as well as theoretical analysis suggest that it may be easier to maintain full employment when technical advance is rapid than when it is slow provided the direction of technical change is not adverse." Hence, the importance to governments of being aware of the potential problems involved in a strongly capital-intensive technical advance rather than a labour-intensive one. This is why the rate and direction of technical change are at the heart of economic policy options.

The conclusions and recommendations of the experts revolve around the concern to overcome "the cultural and organizational problem" raised by communication between economic and social policy makers and those responsible for science and technology policies. It is by integrating research and innovation policies more closely with other aspects of public policy, in particular economic and social policy, that governments can implement decisions that take into account both the opportunities provided and the constraints imposed by science and technology.

THE TECHNOLOGICAL IMPERATIVE AND SOCIAL OBJECTIVES

"We do not subscribe to the denigration of technical change as such" the experts note. "We are convinced that technological opportunities have not been exhausted. When society provides an environment appropriate to the encouragement and adaptation of technical change, there is a vast potential for new useful technologies and related scientific advances." This conclusion led the experts to emphasize the importance of three objectives:

Maintaining and improving the innovative capacity.

The structural adaptation of our economies hinges upon the technological imperative; the report accordingly stresses the measures by which governments may strengthen innovative capacity in manufacturing and the services and fundamental research in the universities. This is the most revealing sign of change in the economic and social context compared with the previous decade: the debate which then centered on the contributions of R & D to economic growth, today focuses on the dangers faced by research and innovation as a consequence of the slowdown in growth. Innovation policies must once again be viewed in a long-term perspective, and basic research must be shielded from the consequences of recession.

Sustaining a higher rate of technical advance and productivity increase.

The group makes specific recommendations on the need to support research into fundamental technologies the achievement of which depends on research which may appear in the view of the universities too applied and in the view of industrial firms too risky or ill-defined. Such technologies (e.g., corrosion prevention and control, materials resistance, etc.) may have wide application in essential sectors of the economy—agriculture, energy, mechanical engineering, industrial chemistry.

In this context the experts stress the need for technological pluralism, by which they mean keeping the door open to alternative technological solutions in order to avoid being caught short, as in the energy crisis, by political or technological "surprises".

The constraints of the new context are such that attention must be given to scientific and technological research which can help overcome specific bottlenecks: environmental regulations, adjustment of productive capacity to more competitive products, more selectivity in long-term research, and training and retraining of manpower in the micro-electronic revolution.

Promoting social innovation and technologies.

The technological imperative is only one of the challenges made by the new context: the transfer of demand to services, pubic and private, also has repercussions for scientific and technical research which could help improve the quality and efficiency of social services. Developing and implementing "social innovations and technologies" call for special support from governments since the organisation of demand here is less clear than in the marketing of consumer goods. The social

sciences and technologies must be used in tandem (transport, health, the environment and urban development) to improve collective services, the quality of life, working condition and the educational and cultural framework.

A POLICY OF PARTICIPATION

If there is little justification for assuming limits to science and technology, the report concludes, there are limitations imposed by political, economic, social or moral factors which may retard, inhibit or paralyse both scientific discovery and technical innovation. "The most intractable problems lie not in the potential of science and technology as such but rather in the capacity of our economic systems to make satisfactory use of this potential. The success of adjustment policies will largely depend on the ability of our societies to exploit their intellectual and technological capital in responding to the social and economic challenges confronting us in the final decades of this century."

This implies that technical change is no more an end in itself than economic growth: "It must find its ultimate legitimisation and indispensable political support in a high degree of correspondence with the aspirations and decisions of the population of our countries." The experts stress that while the public, over the past thirty years, has become accustomed to the economic aspects of the management of society, much remains to be done to add to its knowledge of the implications and potentialities of technology.

"The demand for public participation is the legitimate expression of a more educated public in a period of profound change, which entails also changes in values and a measure of dissatisfaction with the idea that problems can best be presented and decisions taken by the bureaucracy." Fuller information and education open the door to more balanced perception of the technological options and the stakes at issue. "Truly democratic participation is the only guarantee for our societies to overcome the resistance inevitably generated by the technical changes upon which their survival depends."

If the health of the innovative system is to be restored, the acceptance of a higher rate of technical change depends on a widespread social commitment. "This commitment will be forthcoming only if there is a satisfactory balance between the generation of new employment and the loss of old jobs and if technical change is welcomed in our societies because it is perceived to improve the quality of life." Thus, the combination of changes which make up the new economic and social context calls for the establishment of new sorts of relationships in the area of science and technology—not only between those responsible for different kinds of public policy but also between scientists, engineers, technicians and industrialists on the one hand and, on the other, trade unions, consumers' organisations and representatives of the public.●

PRIVACY PROTECTION

● Mr. BAYH. Mr. President, yesterday the Senate passed S. 1790, legislation which I and several of my colleagues introduced in response to the Supreme Court's decision in the case of Zurcher against Stanford Daily. It has been almost 2 years since the Court handed down a ruling which came as a surprise to many of us. A majority of the Court said that a police officer armed with a warrant could present himself at the office or home of any one of us, without notice, and forcibly search the premises for evidence of a crime, even though we knew nothing of and were not implicated in any way in the offense under investigation.

In our Nation's heritage there has long been embedded the notion that a man's house is his castle. As William Pitt said:

The poorest man in his cottage may bid defiance to all forces of the crown. It may be frail, its roof may shake, the wind may blow through it, the storm may enter, but the King of England cannot enter.

Well before our Bill of Rights, our English legal traditions proclaimed that there are boundaries beyond which the state cannot intrude on people's lives and property. In America, the colonists suffered long and painful experience with the king's men entering and ransacking homes and businesses on the mere showing of general warrants or writs of assistance. It was out of these traditions and personal encounters that the fourth amendment was drafted to establish "the right of the people to be secure in their persons, houses, papers, and effects." Suddenly, the Stanford Daily case made clear to us that there were limits we had not known of in our "right to be secure."

I was particularly concerned by the chilling effects the Court decision would pose on the vigorous exercise of first amendment rights by the press. As our hearings clearly showed, the very nature of the news media requires them to gather information concerning a wide variety of people and organizations. When investigating corruption, the fruits of these investigations could almost routinely be considered "evidence" relating to crimes and would therefore be subject to seizure in unannounced police raids of newspapers, radio, and television stations.

Since the Supreme Court decision two other newsroom searches have come to our attention making quick action on this legislation even more important. One occurred in Flint, Mich., in the newsroom of a small local paper, the other in Boise, Idaho, at a local TV station newsroom. The video tapes taken of the police search of the Boise TV station and the reports of that search, which has been widely characterized as almost a raid of the station's tape library, make clear just how serious this problem is, not only for the press but for all of us who rely upon the press to give us the information we want and need about our communities, our Government, and our fellow citizens.

I believe S. 1790 addresses the underlying issue posed by the Supreme Court: How to balance the rights of individual citizens and the rights of Government. Many citizens today are concerned that this balance is being lost. At times, the raw power of the Government, the size of the bureaucracy, the blizzard of regulations, and the tax burden seem to overwhelm the individual American citizen. With the Stanford Daily decision, we have encountered a new and even more disturbing issue—the right of the Government to search through confidential information for evidence of someone else's crimes.

Therefore, we have to ask ourselves: How do we balance the offensive intrusion on the privacy of the ordinary citizen against society's interest in law enforcement? It is not an easy question to answer. As Justice Jackson remarked over 30 years ago:

The right to be secure against searches and seizures is one of the most difficult to protect.

Certainly, one of our first responsibilities is to adequately ascertain just how society's interest in law enforcement is affected by protecting the individual from unannounced searches. Will law enforcement, in fact, be weakened by insisting on less intrusive investigative means when dealing with people who are not involved in any crime? For me, commonsense tends to dictate that there are reasons to treat third parties differently from suspects. If we do not, it is a strong possibility that the Stanford Daily type search will become commonplace.

The Citizens Privacy Protection Act of 1980 provides broad protections against searches without a subpena by Federal, State, and local authorities for documentary materials which are in the possession of those engaged in first amendment activities. When materials consist of work product a general no-search rule applies, when they are documentary materials other than work product a subpena-first rule is generally applicable.

After the Justice Department objected to a bill which would cover all innocent third parties who would have confidential relationships with clients such as lawyers and doctors, a compromise was reached which is contained in section 201 of S. 1790. This section permits the Federal law enforcement agencies to carry out their functions operating under a set of established guidelines to prevent unnecessary and unconstitutional violations of our citizens' privacy.

It has been said from time to time that law enforcement officers rarely, if ever, abuse their authority to search, and that therefore it is unnecessary to legislate. Experience even in the 2 years since the Court's decision has shown us that instances of abuse do occur. Even beyond the evidence of abuse, however, we must look to the potential for abuse. Our liberties are too fragile to be assumed. I am reminded of Thomas Jefferson, writing in some alarm from his post in revolution-torn France to the drafters of the American Constitution, when he learned that they had not included a bill of rights in the document, he warned them:

You must specify your liberties and put them down on paper.

With that admonition in mind, the Senate has acted today.●

PRAYER IN PUBLIC SCHOOLS—STATEMENT OF DR. WILLIAM R. BRIGHT

● Mr. ARMSTRONG. Mr. President, over the last several years, the issue of prayer in public schools has generated much controversy but little insight. Unfortunately, the question of when and if to permit voluntary prayer has become so emotionally supercharged that rational discussion has been hindered.

That is why I am particularly pleased to call the attention of my colleagues

to a thoughtful and scholarly statement on this subject submitted to the House Judiciary Committee by Dr. William R. Bright.

Dr. Bright is the president of Campus Crusade for Christ, an organization which he and Mrs. Bright founded on the campus of a California university. From a modest beginning, Campus Crusade has grown to become one of the most significant and influential ministries in all of Christian history. In less than three decades, Campus Crusade for Christ has spanned the globe bringing the Gospel to literally hundreds of millions of persons in more than 100 nations.

During the same time, Dr. Bright has gained recognition for his dynamic spiritual leadership and unique abilities. He is a great organizer; he is a person of extraordinary ability to inspire and motivate; but most importantly, Dr. Bright is a person who is irrevocably and totally yielded to the Lord. In my opinion, it is his remarkable faithfulness and dependence on the Lord which accounts for the success of his unique ministry.

It is from this perspective of total commitment to God's purpose that Dr. Bright has approached his statement on the issue of school prayer. I believe that every Senator will benefit from studying his comments. And I am confident that even those who may disagree with some or all of Dr. Bright's conclusions will find his arguments thought-provoking and of great value as Congress continues to consider this important issue.

My good friend and distinguished colleague CARLOS MOORHEAD of California has inserted Dr. Bright's statement into the CONGRESSIONAL RECORD of July 31, 1980 at page E3744. I urge all Senators to carefully consider Dr. Bright's statement.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PELL. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH), I wish to state that 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 receipt of 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 a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that seven such notifications were received—five on July 29 and two on July 30, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an African country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a North African country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 30, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 30, 1980.

Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an African country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.●

S. 1641: THE NATIONAL JOURNAL OFFERS AN ANALYSIS OF TITLE II AND NATIONAL WATER POLICY

● Mr. DOMENICI. Mr. President, the National Journal recently included a most informative article: "Water Politics as Usual May Be Losing Ground in Congress," by Lawrence Mosher.

Because of the significance of this article, in conjunction with the provisions of title II of S. 1641, now on the calen-

dar, I ask that the article be printed in the RECORD.

The article follows:

WATER POLITICS AS USUAL MAY BE LOSING GROUND IN CONGRESS

(By Lawrence Mosher)

The Ogallala aquifer, in case you haven't heard, is drying up.

This vast underground water system lies beneath parts of six states: Texas, New Mexico, Colorado, Oklahoma, Kansas and Nebraska. It supports 40 per cent of the nation's cattle industry, a fourth of its cotton crops and much of its grain production.

In 1937, only 600 wells probed the Ogallala. Now there are more than 70,000 wells operating in the region, and the water table is falling. This "overdraft" is expected to exhaust the Ogallala by the end of the century if it is not replenished.

The federal government, which spends some $2 billion a year on water projects, ignored the dwindling Ogallala until only two and a half years ago. Now it is spending $600,000 for a study by the Army Corps of Engineers and the Commerce Department's Economic Development Administration.

Since 1971, however, the federal government has committed $621.7 million to the Tennessee-Tombigbee Waterway, a 232-mile ditch that will connect the Tennessee River with the Gulf of Mexico. Another $225 million is pending in Congress, and the "Tenn-Tom," as it is called, is expected to cost more than $3 billion before it is finished later this decade. It is the costliest water project ever undertaken by the corps and also one of the most controversial.

To critics such as Sen. Daniel Patrick Moynihan, D-N.Y., the new chairman of the Environment and Public Works Subcommittee on Water Resources, and a small but growing number of other water policy reformers on Capitol Hill, the Ogallala and the Tenn-Tom have come to symbolize what's wrong with how the federal government is managing the nation's water resources. While the government continues to pay for such traditional projects as the Tenn-Tom—which Moynihan calls "a plan to clone the Mississippi"—it pays scant attention to vanishing aquifiers and other deteriorating water systems.

"Under the present system there are no real national goals," Sen. Pete V. Domenici, R-N.M., said in an interview. "So we get a combination of pork and parochialism because of historic needs. The waterways need money, but they take the color of pork because they aren't the only kind of water needs in the country anymore. The cities of America have a dramatic water problem now. And in the West, we have these diminishing aquifiers."

Water politics, it seems, are changing on Capitol Hill.

NEW SYSTEM

Domenici joined with Moynihan last year to propose legislation that sought a radical change in Congress process of selecting water projects. Their bill would have allocated $4 billion a year to the states according to a formula based on area and population. The states—rather than the congressional authorization and appropriations committees—would determine what projects got built, and when.

The Domenici-Moynihan bill died last year in the Water Resources Subcommittee. But this year the two Senators have succeeded in getting a modified version approved by the Environment and Public Works Committee. This bill (S. 1641) would establish a five-year "demonstration" program by allocating up to $1 billion a year to the states under the area-population formula. The program would run side by side with the present water project financing.

It is not clear whether the proposed block grant system would result in increased water resource spending. Rather than go through the regular appropriations route, the states could use the new program as a fast-track system for previously authorized projects.

"It would not be $1 billion beyond what would be spent otherwise," a Moynihan aide explained. "We would probably end up at the same spending level that we have now."

The Domenici-Moynihan proposal would significantly shift where federal water money goes, however. Historically, 76 percent of the federal funds have gone to the western and southeastern states. Under the new plan, the share to the northeastern states would more than double to 13 per cent, while the western and southeastern states' share would drop to 66 per cent.

For Moynihan, the motivation is clear. "The Northeast is asking for some measure of equity in the distribution of the federal water project funds," he explained. One project for which Moynihan wants federal help is a third water tunnel for New York City, a $1 billion project that was halted in 1975 because of the city's financial crisis. New York City's two water supply tunnels reportedly lose half their water through leaks, but neither can be shut down for repairs because both are needed to meet the city's water demand.

Municipal water systems have traditionally fallen outside the scope of federal water project financing. The Office of Management and Budget (OMB) continues to block money for "single-purpose water supplies," fearing a flood of new spending.

While federal money generally isn't being spent to rescue deteriorating city water systems, particularly in the Northeast, it is being used to provide water for cities in the Southwest through the multi-purpose dam and irrigation projects built by both the Corps of Engineers and the Interior Department's Water and Power Resources Service (formerly the Bureau of Reclamation).

"There is a legitimate claim on the federal budget for some assistance in improving aging city water systems," Debra S. Knopman of Moynihan's staff contended. "It's the OMB mentality that we can't open the floodgates on this, but that is not policy making."

Domenici's reasons for pushing for greater regional equity in water project funding are not as treasonous as they seem. The Senator from Albuquerque sees diminshing support for water programs if nothing is done to change the financing system.

"There is a far greater need for water resource money in this country than we have been appropriating," Domenici explained. "So long as the procedures and the selection process remain as is, instead of more money going to meet the water crisis under a broadened water policy, there will be less."

A recent vote in the Senate appears to confirm Domenici's fears. During a Senate debate on the 1981 budget last May, Sen. William S. Cohen, R-Maine, introduced an amendment to delete $500 million in water projects. It lost, 40–54, but as one Senate aide put it, there were 40 Senators who thought they had nothing to lose by eliminating about a fourth of the budget's water projects.

CARTER'S POLICY

The Carter Administration, which has been attempting its own water policy reform, has taken no position on the Domenici-Moynihan initiative. Officials, however, don't think the plan will work.

"It doesn't put the money where the water problems are," Leo M. Eisel, director of the Water Resources Council, said in an interview. Eisel also faulted the plan for not requiring the states to pay part of project costs.

Cost sharing by the states is an integral part of the water policy reform proposal President Carter first outlined two years ago.

Congress, however, has shown no interest in enacting the President's legislation, which would generally require states to pay 10 per cent of construction costs for income-producing projects such as hydropower dams and 5 per cent for others. The purpose of cost sharing is to promote better project decisions by involving the states financially.

Carter would also eliminate the existing bias against "nonstructural" solutions to flood control, such as land for parks (as opposed to housing) on flood plains. Currently, the states have to put up as much as 20 per cent of the cost of nonstructural solutions; in such cases, Carter would impose the same rate of cost sharing for structures such as dams and levees.

Carter's water policy has sought to avoid wasteful projects, promote water conservation and encourage environmentally sound solutions. To accomplish these goals, the Water Resources Council, a small, independent body run by the heads of eight federal agencies and chaired by Interior Secretary Cecil D. Andrus, developed a procedural manual and project criteria for use by the four main water agencies—the Corps of Engineers, the Water and Power Resources Service, the Agricultural Department's Soil Conservation Service and the Tennessee Valley Authority. The manual was issued earlier this year.

"Up to now, each agency has used its own arithmetic to figure a project's cost-benefit analysis," Robert Smythe, a senior staff member of the Council on Environmental Quality, explained. "You couldn't really judge whether a cost-benefit ratio was meaningful or not. Now all four agencies are using the same system for easier comparison."

Whether such administrative reforms can discourage more pork barrel fights between Congress and the Administration isn't clear. Shock waves continue to reverberate from Carter's 1977 "hit list" confrontation, when the President challenged 18 continuing water projects as either economically unsound, poorly planned or environmentally harmful.

The list, however, represented only the surface of Carter's battle to wrest control of water project selection from the powerful authorization and appropriation committees of Congress. Carter also struck at the heart of the pork barrel process by blocking the flow of reports from the main water agencies to Congress that are needed in both the authorization and appropriations processes.

"He stopped the system," Senate Water Resources Subcommittee staffer Thomas F. Donnelly said in an interview. "Carter held everything at OMB for two years, causing Congress to complain that he was exercising a pre-veto over what Congress could consider.

"When Congress put together its 1978 authorization bill, it was in a mood to show him up. Congress didn't just take the reports held at OMB. It opened Pandora's box and everybody started reaching down the pipeline to bring up their pet projects."

The 1978 authorization bill never got to conference. Robert W. Edgar, D-Pa., stopped it in the House on a technicality as the 95th Congress was adjourning.

PORK BARREL RITUAL

Edgar has become a leading critic of the pork barrel process in Congress and what he calls its "manhood ritual."

According to Edgar, new Members of Congress take water projects they have in mind to Ray Roberts, D-Texas, chairman of the House Public Works and Transportation Subcommittee on Water Resources, and Tom Bevill, D-Ala., chairman of the House Appropriations Subcommittee on Energy and Water Development.

"The chairmen say, 'Sure, we'll put your projects in our bills as long as you keep your mouth shut about bad projects,'" Edgar said. "So a lot of good people get silenced by this

process. But I think this is now beginning to change."

In separate interviews, both Roberts and Bevill defended the present process.

"I think the system works pretty good," Bevill said. "I don't know of a single water project that's been built in 200 years that hasn't more than paid its way.

"The White House, of course, would like to tell Congress what projects to act on. But as you know the Constitution authorizes the Congress to make appropriations."

Roberts accused Carter of trying to stop all water projects. "They holler pork barrel," he said, "but all my projects except flood control are repayable with interest. We don't give them anything."

In fact, the federal government pays 70 per cent of the cost of all water projects; local operating authorities pay the rest.

Earlier this year, the House passed a new $4.4 billion water projects authorization bill (HR 4788). The Carter Administration found it even more objectionable than the 1978 bill. The Administration supports only 63 of the bill's 214 projects.

Michael Blumenfeld, assistant Army secretary for civil works, explained in a Jan. 19 letter to Rep. Harold T. Johnson, D-Calif., chairman of the Public Works and Transportation Committee, that many of the projects lacked full documentation by the Corps of Engineers. "If we are to evaluate—and the public is to have confidence in—the engineering, economic, environmental and social feasibility of these proposed projects," Blumenfeld wrote, "completion of the report by the chief of engineers and full executive branch review are essential."

The main issue is over the nature of "executive branch review." In his water policy message two years ago, Carter called on the Water Resources Council to conduct an independent review of water projects in their planning stages to determine if they were in compliance with his reform measures.

Project reports from the water agencies are normally forwarded to OMB, where they may remain for months or even years. Carter wanted a "policy neutral" body to review the technical merits of a project both to weed out bad projects and reduce litigation later by ensuring they are in compliance with environmental and other regulations.

The independent review would be completed in 60 days. Its results would be returned to the agency, where a final decision on the project would be made. Further, the review would be part of the project's public record, unlike the OMB review. If approved, the project would then go to OMB.

But Congress has never liked the council. It attempted to kill it two years ago, and now the council is the object of a power struggle between Carter and the House authorization and appropriations chairmen over the new water authorization bill, which is stalled in Moynihan's Water Resources Subcommittee.

The House chairmen won't authorize funds for the council for 1981 until Carter withdraws his objections to the omnibus water bill. But Carter has indicated he will veto the bill in its present form. In the meantime, Congress has blocked money for the council's independent review role. And in retaliation, Carter earlier this year ordered that there be no "new starts"—construction of previously authorized projects—without a review by the council.

"It's a game of chicken now," commented one Carter aide. Meanwhile, completed water project reports from the Corps of Engineers and the other agencies continue to pile up at the Water Resources Council. At last count, there were 43.

NEW PRACTICE

There have been no new water project authorizations since 1976. About $38 billion in projects remain in the backlog, some dating from the 1930s. Congress traditionally has added dozens of new projects to presidential budgets, but Carter, in confronting Congress on water policy, has upset the practice. He has, however, initiated 42 projects that were previously authorized since he launched his water policy reform. (*See table, p. 1189.*)

For fiscal 1981, neither Congress nor Carter has sought money for new projects. The House appropriations bill passed last month listed $2.2 billion in continuing projects, exceeding the President's budget request by only $100 million. The Senate bill is still before the Appropriations Subcommittee on Energy and Water Development.

Environmental lobbyists such as Brent Blackwelder of the Environmental Policy Center now view Carter's water policy reform as a partial sellout. "It's true Carter is jamming the pipeline on new projects. But he's still allowing the old pipeline to run on for several more decades. Are we going to be able to upgrade some of the deteriorating water systems in the Northeast? The answer is no, unless we scrap some of the boondoggles like the Tenn-Tom waterway. There isn't going to be enough money to do both."

Blackwelder and such congressional reformers as Pennsylvania's Edgar think Carter should have vetoed the 1977 and 1979 appropriations bills. Carter did veto the 1978 bill, which carried six projects on his 1977 hit list; the veto was sustained.

But Edgar does believe that Carter's reform measures have had an impact, pointing out that the current House appropriations bill for fiscal 1981 listed no new projects. "That's a first," Edgar said. "I think Tom Bevill is a little bit more gun-shy about putting in bad projects because of the President's water policy."

Senate reformers Moynihan and Domenici, however, argue that the Carter water policy is structurally flawed. Although they applaud the independent review role of the Water Resources Council, they argue that it takes place too late in the project selection process to be effective.

"Carter has not gone to the heart of the problem," Moynihan's aide Knopman contended. "If you are not going to touch the congressional process—the authorization and appropriation roles—then you are not going to get the pork."

The Domenici-Moynihan plan to shift water project spending to the states, however, alarms Blackwelder, who fears it could result in more environmentally damaging projects.

"The mere fact that the states establish priorities will help," Blackwelder said. "But our fundamental objection is that it does not redirect the program toward cost-effective, environmentally sound solutions. There is a great variety among the state legislatures. While you might get a very good program in Massachusetts, you might get a really crummy one in Arizona."

That may be a gamble the environmentalists will have to take. The one thread linking the Domenici-Moynihan proposal to the Carter policy is the objective of getting the states more involved in the project selection process. Last year's original Domenici-Moynihan bill required the states to put up 25 percent of project costs. It was dropped under pressure from State organizations, which also have opposed Carter's latest proposal to reward states that voluntarily adopt the 5 to 10 percent cost-sharing proposal by giving their projects a higher national priority.

The initiative to break the current water policy stalemate now lies with Moynihan. The Water Resources Subcommittee chairman plans to hold a hearing on the controversial Tennessee-Tombigbee Waterway project later this month to challenge its proposed $225 million appropriation for 1981. In addition, Moynihan may attempt to use his state block grant demonstration bill as a vehicle for reaching a compromise with the House over its omnibus water authorization bill. The Senate authorization bill (S. 703) is now considered dead.

Most observers predict that the Moynihan-Domenici initiative will fail, and that the standoff between Carter and Congress will continue. Two Senate staffers with the Water Resources Subcommittee offer opposite interpretations of the significance for pork barrel politics.

"Congressmen are far less interested in the pork barrel process now than a few years ago," Harold H. Brayman said. "Getting a dam built back home just doesn't have the political charm it once had. Other concerns, including protecting the environment, are catchier to the voters now."

Donnelly disagrees. "This is what we saw in the 1950s when there was a fight between Congress and the Eisenhower Administration over water projects," he said. "We went through eight years without an authorization bill. There was talk then about how bad the program was, and how it didn't work. But it does work. We just are having a terrible problem with the President right now."●

IRS CAN DEVOTE MORE RESOURCES TO MAJOR DRUG CASES

● Mr. RIBICOFF. Mr. President, as chairman of the Governmental Affairs Committee, I want to commend the Permanent Subcommittee on Investigations for its continuing effort to improve the Federal Government's ability to combat illicit drug trafficking.

Under the leadership of its chairman, Senator NUNN, and its ranking minority member, Senator PERCY, the subcommittee is evaluating the Federal strategy for controlling the multibillion dollar illegal drug trade in this country.

As the subcommittee points out in a report filed on Monday, the Federal strategy suffers from the absence of the Internal Revenue Service as a full-time participant in major drug investigations.

I support the subcommittee's efforts to have the IRS return to its previous active role in investigations of major narcotics traffickers and other organized criminals.

Americans are frustrated by their Government's inability to stem the tide of illicit drugs. Statistics indicate that the size of the narcotics trade in the United States is approximately equal to the amount of money Americans spend on new cars.

Federal estimates are that in dollars the drug trade is between $44 and $63 billion, according to 1978 data. That same year Americans spent about $50 billion on new cars.

The Internal Revenue Service is capable of being the Government's most effective force in immobilizing the big drug smuggling and distribution syndicates.

But, in part because of constraints imposed by Congress and in part because of its own unwillingness to investigate organized crime, the IRS has reduced its participation in Government efforts to prosecute major drug dealers.

Congress can help by amending the Tax Reform Act of 1976, which placed

severe limitations on what IRS can do in participating in joint investigative projects such as organized crime strike forces.

Major drug traffickers rarely touch or come near the illicit narcotics shipments that enrich them. You will not find the major traffickers handling drugs. They hire operatives for that duty. It is important, of course, to apprehend the underlings in the drug traffic. That can be achieved by the more traditional investigative methods.

But underlings are easily replaced in the major drug syndicates. The syndicates continue smuggling and distributing their product. To actually immobilize the organization itself, the leaders must be detected and prosecuted. That is the only way this Nation will bring under control the narcotics problem that afflicts the country.

To investigate the major dealers and ultimately put their syndicates out of business, the key tactic will be highly specialized kind of inquiry known as financial investigation. Financial investigation focuses on the profits traffickers realize from their drug dealings. No endeavor generates more cash more quickly than does drug trafficking at the high levels. Drug traffickers must do something with their profits. They go to great lengths to conceal the way they dispose of this cash. IRS investigators are trained to detect the flow of these illicit profits. That is financial investigation and IRS agents are the best there are at it. Yet, unfortunately, all indicators show that IRS is virtually removed from the illicit narcotics field.

I am cosponsoring legislation introduced by Senators NUNN and PERCY to amend the Tax Reform Act of 1976 to enable IRS to cooperate more readily with other law enforcement agencies in organized crime cases after established procedures of disclosure are adhered to.

The disclosure provisions of the Tax Reform Act were passed to counter abuses stemming from the Watergate era when White House operatives tried to use IRS to destabilize and otherwise damage persons and groups perceived to be enemies of the President.

The statute has been successful in keeping taxpayers' privacy a major concern to IRS and the law enforcement community. However, if, as the subcommittee has found, the statute also unnecessarily adversely affects law enforcement, then we should take steps to amend the law. That process has already begun.

Our goal should be an amended statute that assures taxpayer privacy and, at the same time, enables law enforcement to carry out its duties effectively, responsibly and constructively.

The important thing is that IRS return to its vital role in investigations of major narcotics dealers and other organized criminals. The IRS expertise in this endeavor is much too valuable to be excluded from the Government efforts to control drug trafficking.

The Investigations Subcommittee held 5 days of hearings in December of 1979 on Federal drug enforcement and IRS's diminishing role in it.

The Nunn-Percy legislation, S. 2402, S. 2403, S. 2404 and S. 2405, are a result of those hearings. The Investigations Subcommittee issued a 132-page report on Monday on its hearings.●

CHESAPEAKE BAY ROCKFISH NEED THE SUPERFUND

● Mr. MATHIAS. Mr. President, the Chesapeake Bay is the main spawning ground for rockfish, or striped bass as it is known outside the Chesapeake tidewater region. This fish is a major Atlantic coast species which spawns in the Chesapeake and migrates throughout Atlantic coastal waters. It is good eating as well as a popular sport fish.

Recent research into the decline of this anadromous fish indicates toxics in the water where the fish spawn are one of the principal causes of the decline of this fish.

Recently the findings of a Federal laboratory in Missouri have added to the growing evidence that chemicals in our Nation's waterways play a heavy role in the decline of this fish species.

Mr. President, I ask that a Washington Post article describing those findings be printed at this point in the RECORD.

The article is as follows:

STUDY ON ROCKFISH DECLINE POINTS FINGER AT CONTAMINANTS

(By Angus Phillips)

One small piece of the huge puzzle that marks the decline of striped bass on the Atlantic Coast is falling into place in a federal laboratory in Missouri.

Scientists there are studying the effects of chemical contaminants on juvenile stripers. They have discovered significant levels of poisons in tiny stripers spawned in the Hudson, Potomac and Nanticoke rivers.

Working with sophisticated equipment that measures contaminant levels in fish as small as a half-inch long, the scientists have found relatively high amounts of PCBs, lead and cadmium in Hudson River fish; lead, zinc, arsenic and selenium in Potomac fish, and arsenic and selenium in fish from the Nanticoke River on Maryland's Eastern Shore.

According to Dr. Paul Mehrle of the National Fisheries Research Laboratory in Columbia, Mo., the research showed juvenile fish with high levels of contaminants had less backbone strength than uncontaminated fish in a control group. Also, he said, trends indicate that their growth rate is slower.

"During early life stages of fish life, if you have chemicals causing altered bone development and slow growth, these fish will not be as likely as uncontaminated fish to survive environmental stresses. It decreases the organism's ability to survive."

While the indication that contaminated fish grow more slowly is only that so far—an unsubstantiated trend—bone weakness was measured at the lab. Hudson River fish were shown to have 42 percent weaker backbones than those from an uncontaminated control group, and the fry taken from the Potomac and Nanticoke had 20 percent weaker bone structures.

The huge majority of East Coast stripers use the Chesapeake Bay and its rivers as spawning grounds. The Hudson is another major spawning area. Stocks of these prized game and table fish have fallen off dramatically over the last eight years, reaching a 21-year low in 1978.

Chesapeake sport fishermen have all but given up on the striped bass (called rockfish locally) and have switched their principal interest to bluefish.

Whether chemical contamination of fry plays a significant part in the decline is not known but Mehrle said, "If we're going to find a time when the effects of these contaminants are likely to be the greatest, it would be in these early life stages."

He said when fish are in the fry stage they have their hardest battle to compete for food, respond to environmental stresses and avoid predators.

He said the effects of chemical contamination would not be seen in anything as obvious as a massive fish kill. Instead, affected fish simply would be less likely to survive these normal competitive pressures as tiny organisms in a large environment.

PCBs, the contaminants found in heavy doses in Hudson River fish, are chemicals that have been banned by the federal government as a suspected cause of cancer. These organic contaminants are thought to be particularly debilitating.

Lead, cadmium, selenium and arsenic are so-called heavy metals, inorganic substances that occur naturally as well as from industrial pollution.

PCB levels in Potomac striper fry were very low, Mehrle said.

The contaminants get into the flesh of the young fish in three ways, Mehrle said. Some exist at birth, passed on by the parent. Others can be absorbed through the gills and still more are taken in through the food chain.

Mehrle said levels of all contaminants increased as the fish increased in size, indicating there was continued absorption of poisons as the fish matured.

It has been known for some time that mature striped bass have contaminants in their systems, but Mehrle said the federal study was the first concerted effort to determine levels in juvenile fish and the effects of the contaminants.

The issue of chemical contaminants is only one of a number of problems the Interior and Commerce Departments are studying as part of a three-year effort to determine why striper stocks are down.

Other suspected causes are habitat deterioration, including the decline of bay grasses that formerly served as nursery areas for young stripers: suspected overfishing by commercial and sport interests; industrial development, and an extended sequence of natural events that worked against any single highly successful reproduction year.

Striper stocks have risen and fallen in years past, and some observers believe the current decline is simply one of these normal fluctuations.

Mr. MATHIAS. Mr. President, virtually every research effort involving water quality of our Nation's largest estuary, the Chesapeake, point the finger at deadly chemicals. PCB's, lead, cadmium, arsenic, and selenium are among the heavy metals which are found in the bay's water and bottom. Industrial pollution and the ever-present threat of hazardous cargo spills in the bay from the constant shipping traffic are the most prominent fears of those who care about the environmental health of the bay.

Congress and the people of our Nation have recognized the need to address the industrial pollutant problem by establishing a fund fed by appropriations and industrial fees to be used to clean up and make safe hazardous waste sites from the past as well as spill in the future. A bill has been reported by the Senate Environment and Public Works Committee to create such a superfund, of which I am pleased to be a cosponsor.

The Senate must act on this important issue this year. Contaminants to our Nation's waterways grow daily and their effects last more than a lifetime. Chesapeake Bay's rockfish are but one of the many casualties of such toxic contamination which must not be allowed to continue.●

SCOTT D. HIMSEL

● Mr. BAYH. Mr. President, it is indeed a pleasure to share with my colleagues the accomplishments and aspirations of one of my constituents, Scott D. Himsel.

Scott, who will be a senior at Jasper, Ind., high school this fall, attended the American Legion's Boys Nation as Indiana Boys State's governor. He was appointed the under secretary of energy. In this capacity, Scott guided legislation dealing with gasohol and coal through the committee process. Unfortunately, when the legislation was presented for final passage, it was narrowly defeated.

Scott has played an active role in his high school marching band, the varsity choir, the debate team, and the Redeemer Lutheran Church. He was a State finalist in the Optimist International speech contest in 1978, the IHSFA speech contest in 1979 and 1980, and the Indiana State champion of the American Legion speech contest. Scott is also a member of the National Honor Society.

Scott plans on furthering his education with interests in political science, education, history, and government. He hopes for a career in law and politics, and I am sure you would join with me and all Hoosiers in wishing Scott every success in whatever he undertakes. It was a pleasure meeting this outstanding young man and sharing an evening with those participating in Boys Nation as one of their keynote speakers.●

A GODDARD SUCCESS STORY

● Mr. MATHIAS. Mr. President, too often, Americans focus their attention on the problems of the day and on what is wrong with the Nation. As a people, we tend not to comment upon our successes and significant achievements. One such achievement is our space program, which American ingenuity and skill, still preeminent, have made the envy of the world.

In one key aspect of this program, space science, our Nation is without doubt the world's leader. In exploring the planets and in trying to learn what makes the universe tick, American scientific spacecraft have made significant discoveries, helping us to understand our own planet and the environment in which it sails.

A major element of this scientific enterprise is located at the Goddard Space Flight Center, near here in Prince Georges County, Md. Goddard is a remarkable place. It represents a valuable national resource, for at Goddard are built and controlled many of NASA's scientific spacecraft. One such satellite, managed by the Flight Center, is the International Ultraviolet Explorer (IUE).

Launched by the National Aeronautics and Space Administration into Earth-orbit in January 1978, the mission is a joint undertaking of NASA, the United Kingdom, and the European Space Agency. The IUE consists of a 45-cm telescope equipped with two spectrographs capable of analyzing ultraviolet wavelengths—radiation that ground-based scientists can never study due to the protective layer of atmosphere around the Earth.

Scientists can observe with the telescope just as they would with an instrument at a ground observatory. The flexibility gained by this method of operation has contributed significantly to the scientific productivity of the IUE. While NASA's Goddard Space Flight Center manages the IUE, over 600 scientists from around the world have used this unique facility in a broad range of science programs, ranging from studies of our nearest neighbors, the planets, to studies of objects at the very edge of our universe, the quasars. The list of discoveries and accomplishments of this mission is very long. Let me mention a few.

The interaction of the solar wind with the Earth's magnetic field and atmosphere causes a phenomenon known as aurorae, or Northern Lights. The IUE has discovered a similar phenomenon on Jupiter. We now have the unique ability to study how changes in levels of solar activity affect two very different planetary atmospheres. The study of auroral activity under a broad range of physical conditions should lead to a more thorough understanding of this phenomenon.

Before IUE, the study of solar-type activity (flares and spots, for example) was limited to the closest star, our own Sun. With the IUE, we have detected similar phenomena in literally hundreds of other stars. Solar-like activity has been found to be quite common among cool stars like our Sun, but more importantly, many stars exhibit such activity at levels a thousand to a million times more violent. Many theories have been put forth to explain the cause of activity on our Sun, but now for the first time, the validity of these theories or models can be tested critically under a very board range of circumstances. Since many scientists believe that long-term climatic change on the Earth may be linked to solar activity levels, a more complete understanding of these phenomena is especially important. The IUE is now supplying some of the basic data needed to achieve this goal.

Ultraviolet spectra from IUE have also provided essential data on the physical conditions of both the gaseous and particulate constituents of active galaxies. When combined with information from other spectral regions, a picture has emerged of complex assemblages of material excited by various energy mechanisms. The ultraviolet spectra show a combination of hot thermal gases, very high-temperature fluorescent clouds, and an underlying nonthermal energy source. The energy can be explained by the acceleration of material onto a massive degenerate core, perhaps a black hole.

In its very brief history, IUE has provided significant new information to help answer long-standing astrophysical questions. It has made many new discoveries.

It is a success story, one of which we all can be proud.●

CHESTER BLAND

● Mr. RIBICOFF. Mr. President, Chester Bland of West Hartford, Conn., was one of my oldest and closest personal friends. In many ways he was a special human being. Not only was he a successful businessman but his accomplishments in every field of endeavor were outstanding. His recent death was deeply mourned by his family, his many friends and admirers. At the funeral services Rabbi Howard A. Berman of the Congregation Beth Israel gave a most meaningful tribute which was sensitive and reflective of the life of Chester Bland. I ask that the tribute of Rabbi Berman be placed in the RECORD.

The tribute follows:

CHESTER BLAND

And so we have come . . . to this place, at this moment in eternity, to pay our final tribute of love and respect to our cherished husband, father and brother, associate and friend—Chester Bland. We come filled with sadness at the loss of such a fine and good man. And yet, in the midst of our sorrow, we must also express a deep and profound sense of gratitude for this noble life and spirit which touched so many people in such significant ways.

Many of you have come today to pay tribute to the public life and accomplishments of Chester Bland—a record of success and service widely recognized. And yet, as important as his career was, and as broad as his professional concerns and involvements were, in the world of business and industry, there was a more private and personal dimension to his character which is not so well known. If this is so, it is because of his quiet, unassuming and deeply private personality, a modesty and humility that hid a significant part of his life from all but his closest friends and family. And yet, at this moment, it is this personal side of Chester Bland that emerges in such great beauty as the most significant dimension of his life and character. It is somewhat ironic that Chester achieved his greatest success and his public image in the business world—for his deepest interests and commitments had always been directed in very different ways. It was the fluke of circumstance that first put him in the midst of the corporate and industrial environment. And though he went on to build a great career, he never abandoned the other interests and pursuits which had been his earliest goals.

He was, as a young man, and always remained, a student—an academician—whose love of learning and whose boundless intellectual horizons never dimmed. He may have sat at the Board Room tables of great corporations, but his heart and soul were more at home in the classroom and in libraries,

museums and concert halls. None of his professional affiliations and involvements ever occupied a greater role in his consciousness than his life long devotion to his Alma Mater, Clark University. Clark always remained Chester's great love. He was forever grateful for the education he received within its walls, and when success came to him, he used his means to become one of its most loyal patrons and supporters. His own field of study had been history, and through the Chester Bland History Fund, its Lectureship Program, and the Library Fund, he enabled countless other young people to pursue their own studies in the past of our civilization.

And of all his accomplishments in business, probably none gave him greater satisfaction than his teaching of business courses at Clark. This love of learning remained with Chester throughout his life. Ten years ago, at the age of 62, a stage in life when the curiosity and vitality of so many others is dulled, he was determined to recapture again the joy of study, and so he and Shirley went to Europe to enroll at the Universities of Geneva and Nice for Graduate studies. These last years in Switzerland and France were among the happiest and most fulfilled of Chester's life. In the midst of it all, his lingering illness had begun to take its exhausting and devastating toll. And yet, even in the midst of the pain and suffering which were his constant companions for almost 20 years, his mind and spirit soared, and he preferred to endure pain rather than take any medical measures that would impair his mental vitality. In a very real sense, to use an image from the history whose study he loved, Chester Bland was a "Renaissance Man"—a figure of great accomplishment and success, whose interests and horizons were broad and all encompassing . . . a patron of learning and culture, who employed the means with which he was blessed, to promote and further scholarship and the arts.

Yet another side of this quiet and modest man that few ever saw, was the private life of family and friends which were the most important focus of his concern. Chester loved the intimacy of home and family, and dreaded those social and professional obligations that took him away from them. With his beloved Shirley, he shared forty-seven beautiful and happy years in a marriage marked by a total mutuality of respect and consideration. They shared each other's interests and accommodated themselves to each other's needs. They supported and cared for each other through good times and long periods of difficulty as well. As a loving and proud father, he instilled in Deborah and Linda the values and ideals which he cherished, and was a "father-in-love" rather than a father-in-law to Jason and Ed. The grandchildren—Emily, Annie and Charlotte; Owen, Daniel and Benjamin, were also his pride and joy. He shared a very special kind of love together with them. And though some of the children could not be here today, travelling and broadening their own horizons in a way Poppy loved and would have wanted them to do, they are surely with us at this moment in spirit. And there were the cherished life long friends—those who knew they could always turn to Chester for help and counsel—those of the smaller inner circle of his closest associates, who knew him as a loyal and generous spirit, and a Rock of strength and support.

And now, after a life of great fulfillment, accomplishment and indeed nobility . . . he is at rest and at peace. And to all of you—Shirley, his loving family, the children and grandchildren, loving sister Reina . . . indeed to all you who were bound to Chester Bland by whatever tie of love or friendship . . . to all of you who represent those institutions and organizations that benefitted from his generosity of spirit, wise counsel and loyal commitment . . . we pray that you will be granted the strength of all the generations of our People, who in the midst of bereavement proclaimed:

"Adonai Natan, Adonai Lakach
Yi-hee Shem Adonai Mi-vorach . . ."
The Lord has given
And the Lord has taken away . . .
But for the love and happiness that was,
And those beautiful memories that will be,
We will praise the name of the Lord—
Now and forever!—Amen●

A HOOSIER SUCCESS STORY—ERIC BOESEN AND THE BOESEN DAIRY

● Mr. BAYH. Mr. President, it is indeed a pleasure at this time of great crisis for America's family farmers to be able to bring to the Senate's attention a significant success story by one of my constituents, Mr. A. Eric Boesen of Greencastle, Ind.

During 1980, Eric Boesen will be celebrating the 75th year that his family has been breeding registered holstein cattle and producing superior grade A milk. At a time when we hear a lot about the imminent demise of the American family farmer, it is well to remember some of the storms that the Boesen dairy has weathered in the past 75 years. This period saw two World Wars, a crippling depression, numerous recessions, countless fluctuations of the market, and the current inflationary pressures.

Throughout all of the changes that American agriculture has undergone, family farmers like Eric Boesen have always proven their competency, efficiency, and resilience.

Mr. Boesen has been appointed honorary commissioner of agriculture for Indiana. I know that my colleagues in the Senate will join with me in congratulating the Boesen dairy for its success in the past, and to thank farmers like Eric Boesen who are currently feeding the United States and much of the rest of the hungry world.●

THE 190TH ANNIVERSARY OF THE U.S. COAST GUARD

● Mr. CANNON. Mr. President, yesterday was the 190th anniversary of the U.S. Coast Guard—one of the oldest, most important, and least appreciated of all Federal agencies. The Coast Guard was established by one of the first acts of Congress in 1790 at a time when it was recognized that the survival of the new Nation was largely dependent on the success of its maritime commerce. Congress took a key step toward maritime success by creating the Coast Guard to enforce the Nation's customs and other maritime laws.

In addition to its maritime "cop-on-the-beat" functions, over the years the Coast Guard has acquired a wide variety of other responsibilities. Perhaps its most important function is search and rescue—saving lives and property that would otherwise be lost at sea. The Coast Guard is charged with the enforcement of marine safety laws and the maintenance of aids to navigation designed to prevent accidents at sea. It also enforces laws designed to prevent marine pollution and, when spills occur, is responsible for cleaning up pollution at sea. In addition to its many peace-time responsibilities, the Coast Guard maintains an effective state of military preparedness and operates as a service in the Navy in time of war.

Over the years, the Coast Guard has established for itself a reputation as a "can-do" service; it has performed its many and growing responsibilities with efficiency and competence. Partly because of this reputation, we have continued to provide it with new responsibilities as our national demands on the oceans have increased, to the point where, today, the Coast Guard is stretched very thin. It has had serious difficulties in taking on new jobs without increased resources to perform them properly.

But despite these recent difficulties, the Coast Guard remains an institution with an important mission and dedicated members. We should regard this occasion of its 190th birthday as an opportunity to gain a greater appreciation and understanding of the Coast Guard's important national role and to dedicate ourselves to assuring that it will be able to continue in that role with the excellence for which it has become famous.●

SENATOR MATHIAS' ADDRESS TO THE INSURANCE INFORMATION INSTITUTE

● Mr. DOLE. Mr. President, Federal regulation has been a major concern of the present Congress. We have acted on legislation to deregulate several major industries: We have closely scrutinized the regulatory activities of some Federal agencies that have aroused a public outcry; and we expect to consider an omnibus regulatory reform bill before the end of the session.

There is considerable momentum in the Congress at present to redirect the regulatory arm of the Federal Government. We have come to recognize the serious impact of regulatory compliance costs on our productivity and on the impoverishment of our citizens through inflation. The Senator from Kansas has been active in the Senate's efforts to develop practical reform of the regulatory system. Last fall in the "Rulemaking Improvements Act" and presently in a proposed amendment to the omnibus regulatory reform legislation, this Senator has advocated a measure which would mandate a nonmathematical evaluation of the tradeoffs of each regulation, allow for public comment, and insure that a new regulation is the most cost effective means to a desired goal. With such a

mechanism in place, we can start to control the unjustified costs of regulation.

In the midst of this work, it is worthwhile to pause and study the unusual way the regulation issue has cropped up in the insurance industry, which has traditionally been regulated at the State rather than the Federal level. The industry is also unusual in that, under the McCarran-Ferguson Act of 1945, it enjoys limited immunity from the antitrust laws. Legislation has been introduced in the Judiciary Committee to alter these circumstances by establishing Federal minimum standards to govern State regulation and by partially repealing the McCarran-Ferguson Act.

The Insurance Information Institute recently held a seminar on the subject of "State v. Federal Standards in the Insurance Industry," and they invited my colleague on the Judiciary Committee, Senator CHARLES MCC. MATHIAS, JR., to expound his perspectives on the question. I want to commend Senator MATHIAS on his sensitive discussion of a wide range of insurance industry issues that have faced us in this Congress. The Senator urges caution on the new proposals to impose Federal standards on this industry. He acknowledges the concerns that have led to the call for Federal intervention, and sends a clear warning to the industry that it will have to clean up its own house in some respects, if it does not want the Government to do it for them. But he also sends a compelling message to us in Congress not to rush in with drastic solutions on this last stronghold of State regulation and self-regulation.

"The Government should be the regulator of last resort," Senator MATHIAS counsels, and I think it is well for us all to heed these words.

I ask that Senator MATHIAS' talk at the insurance information institute seminar be printed in the RECORD.

The statement follows:

FEEDING THE FEDERAL HAND BEFORE IT BITES YOU

I am delighted to be here today to participate in your Government Briefing session. The subject of our panel discussion, "Federal Insurance Standards—State Regulation," couldn't be more timely in terms of what's happening in the Senate.

There is a new focus on the insurance industry in the Congress today. It is a tribute to your tremendous importance and to your impact on the lives of every American. But I'm sure you feel about it the way the man who was being run out of town on a rail felt. "If it weren't for the honor," he said, "I'd rather walk." For better or worse, however, you've got our attention, and now it's up to you to turn our scrutiny into an opportunity to improve your industry.

Two thousand years ago, Herodotus sprinkled his long history of the Persian wars with repeated references to a saying popular at the time: "Count no man happy until he dies." While the insurance business may not have made Herodotus' warning entirely obsolete, it has certainly helped to remove or minimize some of our worries about the future. It has increased the security of our private and professional lives, our families, and our possessions. And, in the process, it has made an enormous social contribution in this country. Just think of the difference that a life insurance policy makes for the peace of mind of the father and mother of a young family, or the difference health insurance makes for everyone in this day of skyrocketing hospital costs.

The value that the American people place on insurance and its benefits is reflected in the staggering size of the insurance business. Insurance premiums are estimated to represent over 11 percent of the disposable income in the United States. If you add the investment income received by the industry, you reach a figure of $212 billion—well over a third the size of this year's federal budget.

When you're dealing in such megabusiness terms, even the smallest shortcoming or slip tends to look large, and any sharp practice is bound to light the short fuse of a major national controversy. And when you consider that insurance is the only major interstate financial industrial regulated by the States, then it is not surprising that complaints might lead the federal government to question whether or not some change is needed in the regulation of the insurance industry.

Let me state at the outset that I have always preferred state and local regulation to centralized federal regulation. So, as a member of the Senate who believes that the federal government should be the regulator of last resort, I am eager to work with you to see how we can keep the long arm of federal government out of the insurance business.

To do that we are going to have to produce some convincing answers for those who think the states—or some of the states—are falling down on their job. I think the majority of my colleagues would rather see the controversy resolved by reform from within and by improving the state regulatory process than by federal intervention. But that will require a strong show of leadership from representatives of the industry, a high degree of prudence from Congress, and vigorous cooperation between the two.

It may strike you as strange that a serious move is afoot to impose federal regulation on the insurance industry at the very time so many other efforts are underway to curb government interference in the marketplace and to regulate the regulators. Right now two major regulatory reform bills have completed the Senatorial committee process and are ready for debate on the floor. The close scrutiny that we gave the Federal Trade Commission this winter and the list of industries that have been deregulated in the last two Congresses show the direction the tide is running: we have unfettered the airlines, natural gas, domestic crude oil, the railroads, and, to a limited extent, banking. We have done all these things in the name of strengthening the economy.

The move to tighten the federal reins on the insurance industry in this political climate is like a boat beating against the current. Even so, you are wise to take it seriously.

In the last century, state regulation was the universal rule not the exception. And, if you look at the genesis of the major federal regulatory bodies that have been created in this century, you will find that in every case the new federal institution was spawned by a breakdown in regulatory efforts at the state level.

In many cases, state laws that regulate the activities of corporations in various industries have proved inadequate because they are based on the assumption that, in the industry's eyes, less is more. States have engaged in a "race to the bottom" with one another and this attitude in some states seemed to invite federal intervention. To attract new business, they carried the doctrine of laissez-faire to its outermost limits, and like the cheshire cat in Alice in Wonderland, all that remained was a big, benign smile. That is the picture your critics paint of the insurance industry and its relations to the state authorities.

GAO REPORT

One complaint is that state governments have filled their insurance departments with former employees of the industry they are supervising. The recent General Accounting Office report on state regulation of the insurance industry, which you have all no doubt studied closely, found that about half of the state insurance commissioners were formerly employed by the insurance industry, and roughly the same fraction returned to industry after leaving their state jobs.

The GAO didn't consider this a serious problem. To quote its report: "We did not conclude that most commissioners are 'revolving door' appointments or that there is anything necessarily wrong with industry employment before or after department service."

The GAO did find another serious problem, however: inadequate staff and money for the state regulatory agencies. The study concluded that the departments are understaffed, undertrained, underpaid, and that the retention rate of experienced employees is low and getting lower. As a result of the GAO findings in this area, I expect we will see greater budgetary allotments for the state insurance departments in the future. This is the type of positive response that the report should prompt.

FTC AUTHORIZATION

The insurance industry was also involved in Congress' debate over the Federal Trade Commission. The Senate Commerce Committee, in response to a clamor of complaint, voted to prohibit the FTC from investigating the insurance industry. The episode convinces me that the Senate does not want the federal government getting involved in the insurance industry period. The majority of my colleagues do not want a federal solution. The final version of the bill prohibits the FTC from any investigation of the insurance business unless one is requested by a majority vote in either the Senate or the House Commerce Committee. The conference report states: "If the (FTC) believes that the McCarran Act should be amended and a broader federal role established with respect to the regulation of insurance, the FTC should exercise the authority it has to propose such legislation as it considers appropriate."

THE COMPETITION IMPROVEMENT ACT—S. 2474

Last year the President's Commission for the Review of Antitrust Laws and Procedures recommended by a vote of 19–2 that the insurance industry's antitrust immunity under the McCarran-Ferguson Act be repealed. As you all know, Senator Metzenbaum has conducted extensive hearings on competition and fairness standards in the insurance markets before the Antitrust Subcommittee. Now, what everyone in the insurance business is concerned about is the new insurance bill Senator Metzenbaum just introduced: the Insurance Competition Improvement Act, S. 2474.

The scope of this bill is widely misunderstood. The bill does not impose federal regulation on the industry, or otherwise precipitate a deluge of federal bureaucrats on the insurance industry. Rather, it attempts

to set out some minimal standards for state regulators. It would do this in two ways: first, by partial repeal of the McCarran-Ferguson Act in order to limit the immunity from federal antitrust law, and second, by eliminating discriminatory classification standards.

I'd like to examine these proposals with you briefly, telling you what I think the bill is trying to do, what complaints or considerations led to their inclusion in the bill, and what alternative solutions have been suggested. I hope we can have an exchange of views on the details and fine print of the bill.

The repeal of the antitrust immunity in the McCarran-Ferguson Act is the core of the bill. At the hearings, Senator Metzenbaum repeatedly raised the question: Why do the insurance companies want to maintain exemption from the antitrust statutes? He wondered why they needed the exemption if they were not conspiring to fix prices. Clearly, what Senator Metzenbaum had in mind was the industry rating bureaus that have been in existence ever since the McCarran-Ferguson Act made them possible. Conformity to the bureau rates is mandatory in some states, others allow deviations. Even where deviation is possible, proponents of the McCarran repeal claim the existence of the bureaus tends to undermine independent, competitive pricing.

For example, one witness at the most recent round of hearings maintained that insurance companies often have aggregated their expense dollars for ratemaking purposes, which in his view was clearly an anti-competitive and actuarially unnecessary manipulation. He also criticized the tendency of these rating organizations to get together and agree on the basic assumptions of ratemaking, a practice which he said yields higher profit margins for the companies that use the rates. He concluded that this system protects inefficient companies and establishes rate levels that allow cream skimming and price manipulation by the larger, more efficient companies. These are the charges that the Senate has heard. Now we want to hear from you.

As I mentioned, S. 2474 also sets out federal minimum standards to elminate discrimination by group or territorial classifications. During the hearings, the Antitrust Subcommittee was told of widespread, unfair discrimination in marketing insurance policies on the basis of classifications and territories. At one of the hearings, we listened to the story of a 20-year-old bachelor from Chicago who had a perfect driving record stretching back several years, yet because he was single and lived within city limits his car insurance had soared to levels he could no longer afford. When it reached $1700 per year, he was forced to start looking around for another, more reasonable insurer. Nowhere in his search did he find a price lower than $2000-a-year—in one instance the figure given him was $3400. So far, the young man has not obtained a new insurance policy on his car.

Industry representatives respond that classification is an accepted procedure in other areas of American life. It underlies how we determine a threshold age for the privilege of voting in national election, or for serving in the armed forces. They also point out that it is always possible to highlight exceptional cases, but that it is improper to generalize on them to indict risk classification in principle.

The Metzenbaum bill would prohibit classifications based on marital status or sex—two categories that have come under increasing public protest. It would also encourage the adoption of merit rating systems based on individual driving records, for example, in automobile insurance, rather than on presumed group characteristics. The bill would also impose limits on the maximum rate differentials allowed for auto insurance price variations based on geographical location or other group classifications, with the exception of merit classification, or classifications based on mileage, make, age, and other relevant characteristics of the insured vehicle.

I do think the public dissatisfaction over arbitrary classification standards of pricing requires a response of some sort. I think the imposition of rigid federal minimum standards, however, would be premature, and I hope that the insurance companies themselves and the state authorities will address on the problem forcefully to preclude the necessity for federal action.

An interesting aside was raised at the last hearing when an exasperated insurance executive lamented to the Chairman that the industry was being attacked from two directions in the Senate—the Antitrust Subcommittee accused the industry of restricting the availability of insurance, while other Senators accused it of encouraging arson and car theft by reckless, indiscriminate distribution of insurance to bad risks.

I hope you will give me your views on the bill, and let me know what response the industry is contemplating to the problems I have discussed. Whatever reservations we may have about the avenue of change he proposes, Senator Metzenbaum has certainly stirred the pot and prompted a great deal of self-examination. Only you can make sure that something useful and constructive comes of the debate.

FAIR HOUSING ACT

Another topic that concerns the insurance industry, and that overlaps with the issues S. 2474 addresses, is the applicability of the civil rights laws to the marketing of insurance. On March 1, 1979, I introduced the Fair Housing Act along with Senators Bayh, Metzenbaum, Javits, and Heinz, as an effort to implement finally and fully Title VIII of the Civil Rights Act of 1968. It seeks to provide a hearing process within the Department of Housing and Urban Development for individual discrimination cases. This new enforcement mechanism will enable HUD's existing conciliation process to work much more effectively in mediating disputes between tenant and landlord, buyer and seller. In his State of the Union Address, the President called this bill his "highest legislative priority in the area of civil rights."

One section of the bill, recently removed by the Senate subcommittee during a mark-up session, would have affected the insurance industry. That section reaffirmed that the writing of insurance was subject to our nation's civil rights laws, and that one could not refuse to write, or discriminate in the writing of hazard insurance because of the race, color, religion, sex, handicap, or national origin of people owning or residing in the insured house, or in the neighboring houses. The bill also provided that state insurance regulatory bodies, operating under substantially equivalent laws and procedures as those established by the Fair Housing Act, be certified by HUD, and that any insurance discrimination cases be referred to those state agencies for resolution.

I was surprised and disappointed that the representatives of the insurance industry objected so strenuously to this basic reaffirmation of our nation's civil rights laws. Civil rights have traditionally been a responsibility of the federal government, and this provision was not a foot in the door to a larger federal role in insurance generally. Even so, the insurance industry was successful in exempting itself from the bill. Still, I think the insurance provisions in my Fair Housing Act are a good example of a sensible compromise to reinforce the state regulatory process in order to avert more radical solutions down the road.

PRODUCT LIABILITY

I would like now to turn briefly to much narrower insurance-related legislation that I introduced last year, my product liability self-insurance bills. These initiatives have met with some resistance from the insurance industry, though I feel that the threat to their markets that the insurers perceive is overstated.

Over the past 20 years, product liability law has changed substantially. Traditionally, the law required an injured user of a product to show that the manufacturer had been negligent in making the product and that the negligence probably caused this injury.

The late Dean William Prosser, a professor of law at the Hastings College of Law and an eminent legal commentator, called this high standard of proof a "citadel" that has shielded the manufacturer from liability.

Under current product liability law, however, an injured user of a product need only prove that his injuries were caused by a defective condition in the product; that such a condition made the product unreasonably dangerous; and that the defective condition existed at the time the product left the control of the manufacturer.

This change has exposed the supplier of a product to potentially ruinous liabilities and, in turn, has dramatically increased the cost of insurance that engineers must pay to protect themselves from such liability.

The severe problem of product liability and professional liability was addressed in the 95th Congress to a limited degree. But the problem persists. In 1978, we amended the Tax Code to make it lawful for a corporation to build up a loss reserve account for product liability, but only with after-tax dollars. We also extended from three years to ten years the carryback of losses attributable to product liability. Unfortunately, however, these actions don't help small companies much and they are the ones with the most severe problem.

A special panel of the House Small Business Committee reported in 1977 that small manufacturers had experienced a 945 percent increase in product liability insurance costs over the previous six years. The National Tool Builders Association states that 20 percent of its members have "gone bare," or in other words, gone without product liability insurance.

I do not expect my product liability bills to cut into the business of the insurance companies. I think most manufacturers and design professionals will use the trust fund to cover the low end of their upper exposure. With the high risk end covered, they will pay a lower premium and could even afford more insurance, which is in everyone's interest.

It not only benefits the self-insurer, but it helps to see that the injured consumer is compensated. The legislation deals fairly and constructively with the needs of small business. It is a refinement of bills studied in the 95th Congress. For example, the strict limitations placed upon the trust fund accounts should cut down significantly the earlier estimates of revenue loss to the U.S. Treasury.

I have worked closely on this with Congressman Barber Conable, the ranking Republican on the House Ways and Means Committee, and together I think we can get this bill to move. In fact, the House has already been moving on this issue. H.R. 6152, the Risk Retention Act, was passed over-

whelmingly—332 to 17—in March, and hearings on this bill have been held in the Senate Commerce Committee. A similar bill, S. 1789, is also being reviewed by the Senate Commerce Committee. Both bills are based on a study conducted by the Department of Commerce, and would allow manufacturers, retailers, and distributors to form cooperatives to provide product liability self-insurance. They would also permit group purchase of product liability insurance through regular commercial markets, which at present is prohibited in the majority of states. I have heard from many insurance executives about these bills, and most of them have told me that they greatly prefer my approach to the problem to the Risk Retention approach.

The Congress faces some very tough decisions right now that affect the insurance business. I hope we can develop a dialogue because we need expert advice and I can't think of a better place to find it than right here in this room.

Everett Dirksen used to tell a story about a man who bought a parrot that spoke four languages. He paid $100 for it and had it delivered to his house.

When he got home that night, he asked his wife if the bird had arrived. She said it had.

"Well, where is it?" he asked.

"In the oven," she replied.

"In the oven! Oh no," he wailed in despair, "that bird spoke four languages!"

"Well then," said the wife, "why didn't it?"

I hope you won't make the fatal mistake that educated parrot made. We live under the most effective economic system the world has ever known. You are the people who keep it going and if you don't squawk when you're in trouble, we may all end up in the oven.●

REDUCTION OF EXPENDITURES FOR TRAVEL AND EMPLOYMENT OF CONSULTANTS, AND IMPROVED PROCEDURES TO COLLECT DELINQUENT DEBTS

● Mr. STEWART. Mr. President, I rise in enthusiastic support of Senate Resolution 489. The economy is the No. 1 concern of the American people today. The working men and women of this Nation have been forced to endure months of spiraling inflation rates. And now increasing numbers of our workers are being forced onto the unemployment rolls, victims of an economy in recession.

Let us face facts. The people we represent are not worrying about which luxury item to cut out of their personal budgets—they cut all those out a long time ago. It is about time Washington responded to the real life concerns of the American taxpayers by putting this sprawling Federal bureaucracy on a no frills diet of fiscal responsibility.

This resolution includes three major provisions, each one a serious attempt to rein in excessive Government spending. Now, we are not talking about cutting out programs that are of great need to the American people. We are talking here about cutting back on activities of the Government. for the Government. activities which are luxuries the American people cannot afford.

Mr. President, the first area of cuts will come in Government travel. There will be $500 million cut from this budget which has gone up 12 percent in the last year alone. Now, I am not talking here about the travel needs of the Defense Department to support our combat readiness. Instead, this cut will go to the funds used by civil servants for travel on Government business. The amount of money in the Federal budget for travel is shocking—almost $9 billion. It is appalling to even consider raising the travel budget for the bureaucracy when so many folks cannot even figure out how they are going to pay their way to and from work each day. While I personally think much more should be cut out of the budget, this $500 million cut is a good start on readjusting Government habits to the economic reality that this Nation is facing.

At a time when I see hardworking farmers struggling to get the money together to put a crop, when I see small businessmen trying to stay afloat in these times of inflation, I cannot condone the use of taxpayer funds to support a more comfortable work-style for Government workers. Too much money is being wasted by folks in Government who just do not believe that the day of fiscal reckoning in this country is here. By starting with cuts in Federal travel, I think we send a clear message to the agencies, to the bureaus, that they are going to have to economize, and the time is now.

The second aspect of this budget cutting resolution addresses a relatively unknown area of Government spending. I am referring to the estimated $5 billion this Government spends on consultants each year. Often called the "invisable bureaucracy", this army of private consultants is paid for by taxpayers dollars to do the job the Government is supposed to do. Of course, there are some cases where specialized consultants do provide a service to the country, but all too often I see stories where the Government has paid incredible sums of money to consultants to produce a "thought" paper, which no one ever reads. Now, I want to be very frank about one motivation for the growth in the use of consultants. It is not popular to admit this, but I think that the truth has to be told. In case after case, an agency will contract out special projects so to enable them to cut back on the number of agency workers, thus giving the appearance of a cutback in Federal personnel. False impressions of personnel cuts and freezes are just so much show, if we have to spend similar amounts of funds to hire consultants to do the work. It is nothing more than a gimmick, and I think it is time to stop playing tricks on the American people. Again, I feel that a cut of $500 million does not go far enough in trimming our reliance on consultants, but it is an important beginning.

Finally, Mr. President, this resolution supports the conclusions of the GAO that the Federal Government can improve its debt collection. Currently the GAO found, the Federal Government is doing a poor job of collecting the debts owed it. An unbelievable $95 billion in debts was still outstanding at the end of 1979. It is time for the Government to put aside its costly and unproductive debt collection practices and begin to use up-to-date commercial practices as recommended by the GAO. For too long the Government has allowed folks to default on their payments to the Government. We have allowed those with student loans, for example, to get away with taking Federal student loans, and then never paying these loans back. This kind of laxness has got to stop.

You know, these three provisions, the two which cut the budget and this last one on improving debt collection, all reflect, in my mind, a return to the principles of good government. We need a Government that is responsible in its spending practices, one which does not waste public funds, one that does not create a class of privileged Federal workers. We also need a Government that takes money seriously and that will collect its debts. It is only when we achieve a responsible Government—and I have no doubt that we can—that the American people will once again come to trust Government officials and have confidence in our Federal system.

Mr. President, I am pleased to join with my colleague from Tennessee, Senator SASSER, and my colleague from Arkansas, Senator PRYOR in sponsoring this meaningful budget cutting resolution.●

THE FLIGHT OF THE LOGGERS

● Mr. PRESSLER. Mr. President, today I take this opportunity to address my colleagues concerning the plight of the logging industry in western South Dakota. The Black Hills National Forest is traditionally a fertile source of lumber and employment for many small, independent businesses. Unfortunately, the very livelihood and existence of independent loggers are presently in immediate danger.

Independent is a word that has been used often in recent times. Yet, independent may not be a strong enough word to describe loggers, who are hard-working individuals in the true pioneer spirit of America.

The loggers in South Dakota must invest substantial amounts of money in trucks, loaders, skidders and other equipment to conduct their business. Many stand to lose everything at this point because their basic tools—their equipment—are about to be repossessed. In fact, it has been estimated that up to 30 percent of the loggers in South Dakota have gone out of business already. More loggers will suffer the same fate unless something is done.

As a last resort, the logging industry has petitioned the Government for assistance. They are not looking for a handout—they only seek temporary assistance to help them keep their equipment and earn a living.

Mr. and Mrs. Myron Doud, of Black

Hawk, S. Dak., are fine examples of the hard working and committed individuals in the logging industry. They have organized and coordinated a petition drive to show the urgency of this serious problem. I have presented a copy of the petition to Mr. A. Vernon Weaver, Administrator of the Small Business Administration, and have met with him concerning this matter. I appreciate the cooperation of Mr. Weaver and persons at all levels within SBA. The prompt attention Mr. Weaver has given to this matter will allow our loggers an opportunity to plan for the rough times ahead, whatever Mr. Weaver's final decision.

Mr. President, the dedication and commitment of the individuals in the logging industry is obvious from the petition and number of signatures. I ask that this petition and list of individuals who signed it be printed in the RECORD.

The material follows:

PETITION FOR FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LOGGERS

We, the undersigned, support the members of the logging industry in their petition for federal financial assistance.

The present slump in the U.S. economic situation, and especially in the lumber industry, has created a condition which necessitates the need of low-interest federal financial assistance to the independent logger in the Black Hills logging industry. Financial assistance is necessary to offest losses over the last few months and to enable loggers to keep equipment and thereby maintain their livelihood. Loggers have their whole lives, their money, and their souls wrapped up in their equipment. Right now, independent loggers are hanging on by a string. Many are operating from payday to payday, some have lost their equipment, others are on the verge of going under.

There is presently very little to no work, due to mill closures or curtailments, consequently, payments can not always be met.

Low-interest federal loans will allow loggers to keep their equipment and maintain their businesses and lives until the lumber industry picks up allowing the loggers to resume their regular productive place in the economy of South Dakota and this country.

This petition seeks the 100% cooperation of the general public as well as from the cutter in the woods to the man who runs the sawmill.

Ronald Carlson, Virgil Bennett & Sons, Jan Rohru, Janie Dillman, Alan Leeling, Bob Stadler, Richard Smith, Mike Basker, Kenneth Phillip, Madelon Holpp, Beth Jeffery, Marie Farrier, Patsy Kidder, Howard Larson, K. Corey, Roy T. Frankman, Arthur M. Mathison, Kay S. Jorgensen, Jim Rarick, and Bill McGrath, Jr.

Gordon L. Jones, Jerome Bertsch, Bill Scobee, Robert L. Oien, Joel Wagenaar, Steward W. Reed, Lee Anne Sachau, May Jean Wical, Clare Wical, Darin Shryock, Jane Wollsum, Butch Ziwath, Jo Heck, Bill Robinson, John Quanzer, Robert Evers, John Priewe, Dan P. Island, C. E. Moser, and Loretta Moser.

Paula Moser, Jim Wette, Del Ladson, Laurel Ford, G. E. Huntley, Darwin Lamb, Floyd Sumners, Dennis Clausen, Edna Boettcher, Linda Lesewski, Keith D. Nelson, Virginia Nelson, LeAnn Vette, Herbert J. Stender, James L. Kelley, John Carson, Mary Ann Geenen, Linda Scott, Evelyn Price, and Charles Schmid.

Harold Gutsche, Dale Bennett, Wallace Robidou, Loretta Klein, Neil Sandidge, Albro C. Ayres, John H. Lee, Robert Fischer, Karen Krietlow, K. C. Phillip, Sylvia Lanphear, Teresa Hamilton, Genevieve Eastmo, Herbert Butcher, Julie Reiter, T. Morris, Lynn Rhode, Edwin C. Stephens, Dr. Charles H. Lineader, and Joanne Howard.

R. L. Evans, George A. Olsen, Laurie Meyers, Peggy Cargin, Don Erfman, Ronald M. Walker, Dan Driscoll, Don Busse, Skip Lewis, Jerry Mailloux, Roger T. Cemo, George B. Owens, Marlyn Aker, Sharon Hudsen, Brad Bruns, Dale Denzin, Marie Schreiner, Wesley D. Johnson, Lewis Spencer, and Don Wynia.

Patricia Kae Wolf, Phyllis Tremaine, Darryl Sterling, Mrs. Robert Larson, Albertine Jensen, Janet Jensen, Terri Holliday, Robert Molitor, Shirley Molitor, Darwin Heuer, Steve Baldwin, Elmer Buchholz, Karen K. Richardson, Ed Hartmen, Bob Studt, JoAnn Engle, Don Engle, Kaye Ohrtman, Rhonda Hirte, and Peg Dailey.

Merlyn Aker, Randy Holst, D. J. Derosier, Beverly Leeling, Reed Wilson, Ken Hall, Chuck Charles, Mary Lee, Florence Phillip, Kathy Maynard, Connie Grenstiner, Cindy Westphal, Clyde Burrows, Mary Thumb, Dave Morris, Kenneth Anderson, Roger F. Eckholm, Mary Owens, Charity A. Murphy, and LuVerne S. Thares.

Donald J. Thares, Michael R. Wallace, Paul Salverson, Wayne Reynolds, Chris A. Hansen, Dena Robbins, Dawn Klumb, Susan Ames, Dee Dee Benning, Helen Wingenbach, Judy Woodworth, Paul Martin, Dee Ostwaldt, Larry Ostwalt, Helen L. Holzer, Paul J. Holzer, Maynard Briggs, L. Cudmore, E. Francis, and Katie Barkley.

James J. Humphrey, Mary Fields, Sally Allen, Mrs. Virgil Aker, Steve Torgerson, Herman Bueno, Arden Loughlin, Betty J. Gould, Gladys Larson, Jessie Y. Sundstrom, Paul Herrmann, Delilah Blackmore, A. W. (Slim) Hendrickson, Marlin Mills, Linda Dubbelde, Omar Ness, Robert A. Morton, Clarence Kewley, Mick Buffington, and Mary Ann Peterson.

Walter R. Thomas, Linda Zachow, D. R. Martinez, Francis Hermes, Ron Fechner, Pete Himmel, Donna Barney, Pat King, Kenneth Lee, Lonie Beachem, Karen Beachem, John Talley III, Steve Hartle, Jorge Meza, Rush Elliott, Tim Straub, Tom Johnson, John H. Essink, Jr., Pat Uhrig, and Lyold Sandelin.

M. A. Pendo, Warren Fagerland, Erna Goehring, Philip Bowman, Alvin Murphy, James Hopkins, Edward B. Whillock, Robert Olson, David W. Ellis, Donald Fildes, Howard R. Freidel, Paul R. Noble, Tom Symonds, Ray Miles, Pat Baumgartner, Hank Bak, Ralph L. Mercer, Mary Ann Kassube, G. K. Miller, and John Church.

Pat Dodge, Eric Stahlecker, Barb Moser, Francis Bickle, Lester J. Rankin, Terrence (Ted) Hoffman, Yvonne Kisinger, Irene Grenstiner, Glenda Lanphear, Gregory Kopp, Wayne King, Larry D. Fish, S. W. Allen, Larry Patenode, Sam McRann, Dianna Rath, Robin Robeck, Marvin Swisher, Glen Hubbard, and Betty Tennis.

Albert W. Slaughter, Sr., Norman Flora, Jeff Essink, Mary Lafrentz, Jim Gross, Dave Lafrentz, Brian Rogge, Barbara Sandidge, Bruce Sandidge, Phil Reib, Dan Essink, Ruben Papka, Peg Dailey, Bob Studt, Barbara Pierce, George Gerdes, Roy Hendrickson, Dick Tisdall, Harold Roew, and Marvin Erickson.

J. Wittmer, Linda Bobzin, Ron Roelandt, James W. Ayres, Kate Eich, Gene Overbolt, Myron Doud, Vicki Schilling, Davis A. Morgan, Linda Morgan, Gail Brandis, Goodney Huisey, John F. Scherer, Betty Lou Hansen, Richard Hansen, Mary Buxcel, B. H. Kassube, Darrell Lich, George Buxcel, and Carol Dietrich.

Ken Dietrich, Joe L. Martin, Jeff Henderson, Rose Goodro, Richard Plocek, Maxine Harter, Lyle Fischer, Mr. Jan Doll, David Sommer, Orvel Hilscher, Bob Shull, Laurie Ford, Virginia Deyo, Chris Allison, Dian Van Tassel, Royce Price, Norma Swisher, Greg Scott, Andy Johnson, and Richard A. Kopp.

Terry Kewley, Rick Cobb, Larry Brazell, Cliff Bebbington, Harry H. Evans, Margie Ford, Jane Smidt, Richard Smidt, LaVern A. Goodsell, Ronald Geisner, Donnie M. Quaschnick, Douglas Quaschnick, Ty Thompson, Ivan Hebbring, Bob Shull, Joyce Busskohl, Cyril S. Ellenbecker, Delphine "Del" Buffington, Bernard Eides, and Curtis Eisenbraun.

Steve Abraham, LaDonna Barker, Richard B. Parsons, Rick Wheeler, D. W. Brazell, Duane Kudlock, Donnie Doud, Ken Smith, Robert Ulmer, Mary Hoffman, Ray Hoffman, Marvin Kallenberger, Eugene E. Bingham, J. Dower, Beverly Leeling, Neil Sandidge, Elmer Jenner, David E. Loup, Leo Thovson, and Larry Rosch.

Richard Saks, Bev Banigan, Matthew McGruder, Neil Plocek, Evelyn Murdy, Leo Quillian, Evelyn Cossart, Garrit Cheeseman, Gloris Lanphear, Jim Koch, William Pinkerton, Cindy Creager, Janelle L. Jones, Esther Matthesen, Yvonne Rath, Jane Wolbaum, Darrel Swisher, Mona Huck, Leonard Schien, and John Culbertson.

James D. Doud, Diane Koch, Rod Cardy, Steve Miller, Terry Kurzenberger, Dorothy Brown, Jim Fitzgerald, Greg Cob, JoDean Beckers, Ray Hansen, Tami McLean, Evan Maddison, Lawrence Steger, Elmer Stalcup, Lowell Swedlund, Dennis Jenner, Bill Howard, Merle Keats, Kenny Dutcher, Dick Keats, Clarence M. Junel, and Byron Dutcher.

Lee Dutcher, Stephen Morrissey, Eva Hanson, Jerri MacKaben, C. E. Moser, Robert Hobbs, B. A. Honomichl, Denise Carl, Don Miles, Dale Nelson, Bill Albrecht, Shirley Sorage, Dave Larsh, Ken Johnson, Ronald Steward, John Steeves, Dan O'Dea, Marvin Klingman, Duane Tomm, Carla Erfman, Harold L. Boyle, Margaret Maltaverne, and Mike Salem.

Norval Kurzenberger, Thelma Nelson, J. Ommen, Alice Kidder, Mrs. Norval Kurzenberger, Ruth Anderson, Robert C. Herr, Vic Huether, Bob Zuhr, Dale Schrier, James Pickering, Virgil Aker, Conrad Comer, Donna Cearns, Louis J. Truman, David Heemstra, Edward Gillespie, Lauren Erickson, DeAnna Dutcher, Leo Cassidy, JoAnne Clevenger, and Tom Calhoon.

Sandy Pool, Elizabeth Fidler, Lana Wenzel, Glenda Eixenberger, Kenneth P. Neiman, Richard A. Cleveland, Ed Carlson, Tom Harper, Joel Carlson, Blanche Garhart, Jacque Craven, Carol Schutte, Nancy Larsh, Jack R. Frost, Karl Webb, Mark Burke, Marty O'Dea, Robert N. Waisanen, Keith Hale, Clayton Overland, Donn Boyle, Karen Page, and Norman Tolsma.

David Campbell, Donnie Kurzenberger, Pat Doud, Philip Dachtler, Frances Allen, Lonnie Hall, Irene M. Lampert, George Semler, Nick Ganje, Robert Siemonsma, Larry Martian, Michael Aker, Sherman Teigen, Mick Buffington, Roger Butrum, Mike Dutcher, Selvin Tollefsrud, Gordon Gillespie, Dean Sorenson, Brian Hallock, Tina Dutcher, and Charles Dutcher.

Lucile Dunwoody, Josie Ewing, Terry Wenzel, Dennie Dykeman, Art Erickson, Robbie Robbins, Chuck Henderson, Donna Carter, Ed Price, Kathy Harker, Larry Burtzlaff, Lucy Heisinger, Marie Jungers, Susie Stewart, Kenneth Smith, Lisa Erfman, Dan Rhiley, Mel Waisanen, Norman Bergstrom, Mrs. Richard Bartels, H. W. Morrison, and Cathy Carlson.

Bobby R. Olsed, Roxy Willstein, Norman Jacobsen, Joe Brinkman, Ann Gilbert, Dale E. Fischer, Charles Whisler, Russell H. Halvorson, Gene Overbolt, Lloyd Sandelin, Patty Page, Lola Kletzmayer, James D. Mason, Loretta Peterson, Jackie Findley, Scot Littleton, Sharon Peck, Dick Olson, and Julie Oien.

Clara Calhoon, Dennis Coleman, Bob Nelcon, Garth Virkula, Shirley Mohr, Chuck Hodges, Wayne Yates, Ray C. Edwards, Mark Jensen, Paul Hennessey, Lance Hoffman, Joheph Langer, Dave Langer, Bob Moore, Bill Foster, Jr., Carol J. Hills, Tom Harvey, Art Wilson, and Bruce Sandidge.

Gary Kirkpatrick, Wayne Coulter, Collette Brink, Jerry Swanson, Ray Hussey, Ernest Schleuning, Robert D. Antior, Dwight M. Guffey, Duane Kudlock, Pat Uhrig, Susan Pickett, Herman Kletzamayer, David W. Waterson, Connie Rath, Ed Findley, Joe Miller, Linda Johnson, Scott Sieler, and Colleen Langer.

Don Calhoon, Mrs. L. Hall, Cherie Gerving, Denis Caron, Margie Nold, Walter Mickelson, Rickey Hanrich, Jean A. Edwards, Herbert Hubbard, Tom Nelson, Lloyd D. Shockey, Richard Langer, Bruce Ehrlicher, Bill Watkins, Ramona Klein, Von Ackerman, Jerome A. Hall, and Lyle Baumeister.

Fran Blakeman, S. F. Mahoney, Florence Surface, Bruce Gill, Paul Huntimer, Eddie Rypkema, J. F. England, James D. Hopkins, Marvin J. Erikson, Rita Lutz, D. Kellogg Beverly M. Frost, Loretta Mason, M. Pickering, Charles Littleon, Don Peck, Gladie Smith, Terri Haeger, and Lisa Edwards.

John Hoffman, Mr. W. Hall, John D. Lipp, Paula Katon, Kris Rieff, Sylvia Mickelson, Dorothy Edwards, Rayetta Jensen, Colleen Hennessey, Gayle L. Weaver, John Collins, Mike Langer, Gary Hoff, Mark Strickland, Karen Bridges, Deon A. Mattson, Arlo L. Grass, and Charles Plocek.●

TELECOMMUNICATION LEGISLATION

● Mr. SCHMITT. Mr. President, the introduction in June of S. 2827, the Communications Act Amendments of 1980, was an important step toward congressional enactment of comprehensive telecommunications legislation. This bill was the result of work which began in the 95th Congress. After hearings held by the House and Senate Communications Subcommittees in 1977 and 1978, members of the Senate Communications Subcommittee were convinced that rapid advances in telecommunications technologies made the regulatory structure created by the Communications Act of 1934 obsolete. The testimony demonstrated that competition among companies seeking to provide new and innovative telecommunications services was possible in a marketplace environment free of pervasive Government regulation.

On March 12, 1979, Senators GOLDWATER, PRESSLER, STEVENS, and I introduced S. 622, the Telecommunications Competition and Deregulation Act of 1979 in response to that testimony. Senators HOLLINGS and CANNON introduced S. 611, the Communications Act Amendments of 1979 on the same day. Thereafter, the Communications Subcommittee held 22 days of hearings on these two bills, taking testimony from 156 witnesses.

After the hearings, the minority staff of the Communications Subcommittee was directed to revise S. 622. In November, 1979, a "discussion draft" reflecting those revisions was circulated to interested parties for their comments. The majority staff of the subcommittee revised S. 611, and in December, Senators CANNON and PACKWOOD circulated a "staff working draft." Soon after the first of the year, at the request of the committee chairman, Senator CANNON, and the ranking Republican member Senator PACKWOOD, the minority and majority staffs began working to develop a bipartisan bill.

S. 2827 was the result of that joint effort and represents the compromises necessary to begin the markup process in committee. This process would be difficult and protracted, but necessary. As with most compromises, the bill has not pleased everyone.

After S. 2827 was introduced, the committee received comments from interested parties which, not surprisingly, ranged from praise to criticism.

Most comments indicated satisfaction with the bill's emphasis on creating a competitive environment for providing telecommunications services; however, some criticized the means used to achieve that objective. Telephone companies thought the bill contained too much unnecessary regulation. Data processors, some specialized carriers, and certain telecommunications equipment manufacturers believed that the safeguards included to insure a fair competitive environment were inadequate. A.T. & T. viewed the bill as giving the FCC too much flexibility; others felt it did not give the Commission enough. Broadcasters found the deregulatory effect inadequate, while some public interest groups thought the bill did not retain enough regulation. Newspaper publishers were concerned about A.T. & T. getting into the electronic newspaper business. Some State and city representatives felt that their jurisdiction over cable television was being diminished.

Because not all the interested members could attend, markup, which had been scheduled for June, was postponed. More comments were filed during the July recess. On July 30, the committee announced its decision to hold additional hearings. On July 31, the House Interstate and Foreign Commerce Committee reported its communications bill, dealing only with common carrier issues.

Mr. President, this recitation of history indicates to me that we have made substantial progress toward enacting comprehensive telecommunications legislation. Obviously, the process has been filled with peaks and valleys. This was not unexpected in such an important and complex legislative effort. S. 2827 may not have made all the right decisions, and revisions and improvements will undoubtedly be made as the legislative process continues. However, it provides a firm foundation for proceeding with further hearings this session, followed by early action in the next Congress.

We have devoted substantial amounts of time and resources toward achieving this objective. Our effort should not falter.

As I have said repeatedly in the past, Congress should be making telecommunications policy—not the FCC or the courts. However commendable or condemnable recent FCC decisions may be, it is imperative that the Congress provide policy guidance, and the sooner the better.●

REAL MONEY—THE SURVIVAL OF THE WEST

● Mr. HELMS. Mr. President, in the August issue of Harper's magazine there is an outstanding article by Lewis Lehrman, president of the Lehrman Institute of New York. His article, "Real Money," brought to mind a work by Elgin Groseclose, a prominent Washington attorney and author of "Money Man." This book is a history of monetary affairs that expertly illustrates the fact that the decline and collapse of nations is accompanied by the inflation of their currencies.

I strongly believe that we ignore lessons of history at our own peril. The inflationary policies which we have been following in recent years are no small, bothersome difficulties. Inflation kills societies. It is undermining not only the American economy, but other institutions of our Nation as well.

Mr. Lehrman, like a growing number of economists, journalists, and Members of Congress, believes that the United States must adopt a gold-based monetary system.

Voltaire observed that paper money always reaches its intrinsic value. That value is, of course, zero. The dollar, as we are all too painfully aware, is rapidly headed in that direction, and the only thing that will save it is a credible, gold-based monetary reform.

Mr. President, I ask that Mr. Lehrman's article be printed in the RECORD at the conclusion of my remarks.

The article follows:

REAL MONEY

(By Lewis E. Lehrman)

The world economy of the nineteenth century was, above all, characterized by the gold standard. Each great power defined its currency by a weight unit of gold and guaranteed such convertibility. Thus all national currencies were linked by a specified ratio to an underlying and universal common denominator, gold, which functioned as a neutral world currency. The gold standard was the impartial arbiter of the world financial system. Though linked to all national currencies, gold was nevertheless a reserve currency asset, "outside" and beyond the manipulation of any sovereign country.

World War I ended the preeminence of the classical European states system. On the eve of war, the belligerents suspended the gold standard—the guarantor of a hundred years of price stability. War and the prospect of inflationary war finance doomed the maintenance of a gold-linked currency. In order to stem runs on central-bank gold reserves, the governments of Europe ceased to honor the gold convertibility laws. The expansionary credit policies subsequently pursued by the European central banks led, during the next decade, to the great paper-money inflations in France, Germany, and Russia—among other European countries.

An Age of Inflation began. Writing as early as 1919, while attending the Paris Peace Conference, John Maynard Keynes argued that there was no surer means of "overturning the existing basis of society than to debauch the currency." Inflation, he warned, "engages all the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose."

Decades later, I watch—both at home and abroad—the disintegration of the value of the paper dollar. Inflation is upon us once again. The astronomical rise of the price of gold from $35 in 1971 to $600 in June of 1980 merely denotes the meaning of inflation—i.e.,

the debasement of the dollar and all other paper currencies. This corrosive process began, however, after the early years of the Great Depression (1929–32), when President Franklin D. Roosevelt abrupt ended the domestic gold standard in 1933 and in 1934 devalued the dollar by raising the price of gold from $20 to $35 per ounce.

At the time, Roosevelt and his economic advisers believed that in order to arrest the deflation of prices it was necessary to stimulate the economy. To this end they raised the price of gold, and thus lowered the value of paper money, hoping also to raise depressed commodity prices. By manipulating the gold price and depreciating the currency, FDR hoped to cause all other prices to rise and, as a result, restore prosperity. The dollar was, as the phrase went, no longer "as good as gold." For Americans, the dollar would no longer be linked domestically to an article of wealth. In the future, the dollar would be a managed currency, its value substantially determined and regulated by the opinions of the members of the board of governors of the Federal Reserve System. But the dollar-depreciation policy failed. Five years later, in 1939, unemployment still exceeded 10 percent of the work force. Later, World War II ended the Depression.

At Bretton Woods in 1944, ten years after Roosevelt's dollar devaluation, an international monetary agreement, largely determined by the Americans and the British, was concluded. The Bretton Woods agreement established the dollar as the "official" world reserve currency. The values of foreign currencies were to be determined by their relationship to the U.S. currency, which was convertible only for foreigners at $35 per ounce.

Between 1945 and 1958, the European countries ran huge government budget deficits and financed part of their debt by creating new money at their central banks. At that time, the U.S. government budget deficits were not chronic, nor were they very large. Keynesian fiscal policies were possible in Europe because European currencies were not mutually convertible into gold at a fixed rate. Convertibility would have limited the freedom of their central banks to create new money. Thus the European governments created excess money, which caused their currencies to be chronically weak compared with the relatively stable dollar. The economic experts called this problem the "permanent dollar shortage."

After 1958, the leading European nations reestablished mutual convertibility of their currencies, limited their budget deficits, and ceased to finance government debt with the creation of new money. But the United States, especially after 1960, developed annual budget deficits and practiced the same expansive central-bank credit policies that had characterized the European countries during the 1940s and 1950s. Predictably, the excess dollars, created by government budget deficits and "accommodating" central-banking monetary policy, gave rise to chronic balance-of-payments deficits and a weak currency. Almost overnight a glut of dollars replaced a shortage.

Throughout the 1960s the American balance-of-payments deficit, generated by these expansive U.S. monetary policies, led to periodic foreign-exchange crises and eventually to foreign-exchange controls. The Bretton Woods system groaned under the flood weight of excess U.S. dollars in financial markets abroad, where they were accumulated in the official foreign-exchange reserves of America's trading partners. Thus was the U.S. deficit recycled. Excess dollars went abroad: they were purchased by foreign central banks and were then reinvested in dollar securities, often Treasury securities. In effect the excess dollars went abroad, but the dollars then returned from abroad to finance the U.S. Treasury deficit. This legerdemain was described by one critic as "a deficit without tears." In a word, the *reserve currency* country, the United States, had no incentive to end its deficit. The adjustment mechanism of a true gold standard, needed to ensure equilibrium in the budget and in the balance of payments, had been immobilized. This failure of the adjustment mechanism was the chief defect of the Bretton Woods system, based, as it was, on a managed national currency—the dollar.

Indeed, the United States enjoyed the exorbitant privilege of running deficits to finance inordinate social programs at home and irresolute and costly wars, like Vietnam, abroad. Only the reserve-currency country gained this unique seigniorage, at the expense of the rest of the world. Even the nominal gold link was diminished during the 1960s by abolishing the domestic gold reserve required to back the dollar. And predictably, with the discipline of a legally required gold cover brushed aside, budget deficits, inflation, and the balance-of-payments crises intensified.

During the 1960s, professional economists—Keynesians and monetarists alike—made the case for a new era of central-bank "managed money." A managed currency was especially the triumph of Keynesian economists, who dominated economic policy and academic circles between 1945 and 1965. Their "demand management" policies, designed to eliminate recessions, relied on federal budget deficits substantially financed by the Federal Reserve's willingness to create new money.

On the international side, both Keynesians and monetarists criticized the faltering Bretton Woods fixed exchange rates. Ironically, on this issue these intellectual enemies agreed, but not on the reform of Bretton Woods. Instead they advocated its demolition. In the place of the convertible currencies of Bretton Woods, they proposed central-bank-managed currencies, floating exchange rates, and the demonetization of gold.

Even Richard Nixon as president was gradually converted to Keynesian economics. ("We are all Keynesians now," he remarked.) But Nixon also absorbed some of the teachings of the monetarist school—in particular, the desirability of replacing the Bretton Woods fixed-rate system with floating exchange rates. On August 15, 1971, Nixon closed the gold window, refusing to redeem excess dollars for gold, as the British government had demanded a few days earlier under the terms of the Bretton Woods treaty. The last remnant of a tattered gold-exchange standard was discarded by the leader of the free world. Thereafter, the dollar ceased to be a real money—that is, a money linked objectively to an article of wealth such as gold. Now it would be a nominal money, a paper monetary token, linked to nothing but the subjective opinions of its regulators at the Federal Reserve System.

Lenin once observed that gold should adorn the floors of latrines. Keynes labeled the gold standard a "barbarous relic," and Milton Friedman has recently said that for a monetary standard one may as well use pork bellies.

When President Nixon demonetized gold in 1971, Henry Reuss, chairman of the House Banking and Currency Committee, predicted that the price of gold would fall to $6 per ounce. It is true that gold remained below $40 until 1972. But by January of 1980, the price of gold was soaring above $800. Recently it has fluctuated between $500 and $600. What caused the exponential rise, fluctuations, and fall of the gold price? I believe that the cause of the violent rise was the same as the cause of other commodity-price rises. Indeed, the same cause was behind the balance-of-payments deficits of the 1960s and the inflation of the 1970s: quite simply, the excessive expansion of money and credit, engineered by the Federal Reserve System in order to finance the Treasury deficit and fine-tune the economy.[1]

Thus there is irony in the comments of the monetary authories who declaim that gold is too volatile to stabilize the monetary system once again. On the contrary, it is not the gold price that is unstable. From 1940 to 1976, the purchasing power of gold has remained constant, according to Prof. Roy Jastram in his book "The Golden Constant." In fact, it is the value of the dollar that is unstable, an instability caused in the past by the Fed's unpredictable and expansionary monetary policies.

The truth is that the Federal Reserve managers are honest and well-intentioned. But they believe they can achieve a goal that is not within their power to achieve—namely, to manage the currency. Moreover, they believe they can fine-tune the world's most complex economy by changes in credit policy. The Fed's ever-changing open-market interventions to this end have only creatd uncertainty and disorder in the financial markets.

The fundamental problem of Federal Reserve monetary policy is that the amount of money in circulation cannot reliably be determined by the Federal Reserve board of governors. Therefore, the Fed should stop trying to do so. The Fed simply cannot either accurately know the demand for money in the market or fix precisely its supply. Nor does the Fed possess the information, the operating techniques, or the vision to bring about a certain rate of growth of money supply and credit. Nor could this growth of supply be consistent with the precise demand for money in the market. Moreover, as history shows, no stipulated level of money supply during a specific market period is necessarily correlated either with a specified rate of inflation or deflation or with price stability. For example, during part of 1978 the quantity of money in Switzerland grew approximately 30 percent, while the price level rose only about 1 percent. While inflation rates in Switzerland have subsequently accelerated, inflation has persisted at a modest fraction of the growth in the quantity of money. Conversely, in the United States in 1979, the money supply grew about 5 percent while the consumer price index rose 13 percent and the wholesale price index even more.

Previous experience also gives one little confidence in the limitless discretion of the Federal Reserve governors under the present system of floating exchange rates. Consider what the Federal Reserve is: First and foremost, it is a bank. More precisely, it is the "bank of issue." It has a balance sheet and it has an income statement. As a banking institution it can perform no magic with money. The Fed buys assets with the resources provided by the liabilities it assumes. But it is important to recognize that, within limits, the central bank can also vary

[1] The credit policy of the Fed can be observed in the following numbers.

Total FRB credit expansion
(Average annual compound rates)

	Percent
1960–65	8.6
1965–70	8.8
1970–75	8.4
1975–79	8.7

As the table shows, the expansion of central-bank credit has for two decades been almost three times the rate of economic growth. The excess credit created by the Fed went abroad in the 1960s when it was known as a balance-of-payments deficit. The same excess credit also caused domestic prices to rise in the late 1960s. During the 1970s the excess money created by the Fed caused inflation at home and the decline of the dollar abroad.

the composition of Federal Reserve credit, its assets. Federal Reserve credit is a precise magnitude that tends to regulate the rise and fall of credit and money supplied by the Fed to the banking system. If the credit or money supplied is actually desired in the market, the price level will tend to be stable. If some of the new credit created by the Fed is undesired, it will quickly be spent at home and abroad, the price level will tend to rise, and the value of the dollar at home and abroad will tend to fall.

This problem of equalizing the supply of credit and the demand for it in the market illustrates the problem of monetary policy and central banking. To conduct the operations of the central bank, there must be a goal. If the goal is both price stability and a specific amount of money in circulation, the Fed must know precisely, among other things, not only the amount of money in circulation but also the volume of money and credit actually desired in the market. For only when the supply of money equals the amount desired in the market will there be no inflation. If by open-market operations the Fed unwittingly creates excess money in the market, prices will rise, as the excess money is rapidly used for purchases.

But, if, instead of a specific quantity of money, the goal of the central bank were primarily price stability, the Fed would promptly reduce the amount of credit it made available to the commercial banks when excess credit was causing inflation. As Fed credit growth contracted, so would the money stock. As a result, excess money would be absorbed until the level of actual cash balances in the market was strictly equal to the amount of cash balances desired for economic growth. During such a market interval, inflation—or excess demand—would dissipate and prices would gradually stabilize.[2]

If the goal of the central bank during a period of inflation must be to restore reasonable price stability, then the central bank should reduce the quantity of money in circulation to make it once again equal to desired cash balances. Under this restrictive monetary policy the banking system must tend to avoid making new bank loans. This is a monetary policy that will work, because the supply of money and credit will, as a result, tend to decline and to equal the desired amount. If cash balances are strictly equal to the level of desired cash balances, prices will be stable. If there is no excess money in the market, there can be no inflation.

The consequences of such a monetary policy will make themselves felt throughout the economy. Since the supply of money will tend to equal the level of money desired, consumers as a whole will not wish to make purchases with their existing cash balances until they first produce something new. In a word, consumers will not make demands in the market without first offering supplies. Under such conditions the price level will be stable. It will vary moderately around unity, and there will be no inflation arising from excess cash balances created by the central banking system.[3]

History and economic analysis show that the policy best suited to ensure price stability is to make the value of paper money equal to a weight of gold. Thus the volume of currency would be linked to a real commodity, gold, the supply of which grows over the long run at 2 percent a year, roughly proportionate to the rate of economic growth over long periods.

A currency convertible at a fixed price into gold is a long-run stabilizer of the money supply, while central-banking discretionary instruments are useful only for providing elasticity to credit and currency supplies in the short and intermediate term.

Although one wants to give the managers of our central bank a certain degree of discretion in order to supply money for the market, one doesn't want to give them so much discretion that in the short run, for political reason, they might abandon the goal of reasonable price stability—a goal that only the convertible currency will ensure.[4]

Indeed, a convertible currency constrains all central-banking techniques. For if money is pumped into the system, there will appear on the market a surfeit of cash balances. Those receiving money in excess of desired levels would then appear at the central bank with a demand for redemption in gold. Such evidence of excess money offered at the fixed price for redemption in gold will signal unequivocally to the monetary authorities that there are indeed excess cash balances. The true signal of excess money can be given only by people and firms, concretely expressed by those who would desire to convert such excess funds at the central bank for gold. Such money would be clearly unwanted or it would not be brought in for redemption at the bank. On this signal the Fed would gradually reduce credit to absorb these excess cash balances. The inflationary episode would be cut short because of the requirement to sustain the fixed convertibility ratio between the limited quantity of gold and the undesired currency.

Some would argue that a gold-backed currency is costly, in social and economic terms, compared with a pure paper currency. But whatever the minor social cost of a currency convertible at a fixed parity into gold, it is a superior monetary stabilizer and a more efficient price regulator. As Professor Jastram shows in "The Golden Constant," the history of the gold standard provides evidence of reasonable, long-term price stability. If the goal of the United States is an end to inflation and reasonable price stability, it is not an excessive cost to allocate a minor share of our resources to the regulating mechanism of the money supply. Nothing else but real money will assure the indispensable virtue of permanent trust in the currency. Without real money, saving evaporates, investment languishes, and the future is impoverished.

Consider also that Americans are required by law to accept paper dollars in exchange for production and labor of a stipulated value. Money, therefore, if it is to be anything, must be at least an efficient and trustworthy instrument by which working people accumulate savings. Men and women carefully save cash balances from the proceeds of their labor. Surely they must insist that the future value of their money closely approximate the objective present value of their labor. The implied convertibility between a unit of real money produced by labor and an article of wealth created by human labor for the market must be assured. Therefore, the value of the monetary unit should have a real objective regulator. But the value of money has an objective regulator only when it is linked to a real commodity, like gold, itself requiring the cost of human labor to be produced. By comparison, the value of inconvertible paper money has no objective regulator, its marginal cost of production being nearly zero.

The covenant between any worker and society must be underwritten by something more lasting than a nominal paper currency or mere monetary tokens. In exchange for work, there must be the payment of real money, the value of which endures. Over thousands of years a gold-related currency has performed this function for civilized men. By establishing real money, men rule out its debasement. In the long run, the value of an ounce of gold is proportionate to an objective quantity, namely the amount of labor invested to mine and to fabricate it. Moreover, a gold currency exhibits the properties that make real money the foundation of an exchange economy. It is scarce, storable, measurable, divisible, immutable, transportable, malleable, and fungible.

Above all, the value of a monetary unit, defined by a weight unit of gold, has a fair and efficient regulator of its value in the world economy, namely, its cost of production. For example, if it requires fifty man-hours to produce one ton of coal and a hundred man-hours to produce one ounce of gold in an open market, then approximately two tons of coal will be exchanged for monetary units sufficient to buy one ounce of gold. If men were able to exchange one ton of coal (fifty hours of labor) for the money to buy one ounce of gold (one hundred hours of labor), men would cease to mine gold in a free market and they would dig enthusiastically to mine coal. They would produce more coal for money and purchase the gold they desired. The increased demand for gold and the increased supply of coal would gradually reestablish an equilibrium ratio between the two commodities—a ratio roughly proportionate to the quantity of labor required to produce them.

Therefore, in order to end inflation permanently and to bring about stability and trust in the U.S. currency, the dollar must be defined in law as equal to a weight unit of gold, at a statutory convertibility rate that ensures that average wages do not fall. Nothing less will yield an enduring currency and a stable social order. Currency and a stable social order. Currency convertibility into gold at a fixed rate is virtually a constitutional guarantee of the purchasing power of money and, therefore, of the future value of savings. The legal framework of a convertible currency makes of money a lasting political institution. It is now time for the United States to offer the world a real money, underwritten by a guarantee of gold convertibility.

As a result of a true international gold standard, no central bank, not even the Federal Reserve System, could expand credit beyond the desired level in the market. This self-denying ordinance of central banks is the principal foundation of financial order. The ordinance must work, because to create an excess supply of money and credit in the market would cause the prices to rise and the exchange rate to fall—while the gold-convertibility price of the currency

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[2] Cash balances are the ready means of payment we hold in our pockets or at the bank. So is money. Money is often used by people to mean wealth. But money is not the same thing as wealth. Modern money consists of currency and checkbook deposits. Money is, therefore, that balance of our wealth that we choose not to hold in the form of financial assets, goods, and services. This money balance is cash. Money, strictly defined, is a synonym for cash balance.

[3] This concrete monetary policy finally comes to grips with the quantity theory of money and Jean Baptiste Say's Law of Markets, famous classical issues of economics that preoccupied Lord Keynes in *The General Theory*. Say's Law holds that the value of total supply always equals total demand. Keynes disagreed, and he was right. If Say's Law were correct, there could never be an imbalance between supply and demand; therefore, no inflation could occur. But inflation does occur.

The monetary policy to be derived from a *modified* Say's Law is clear: minimize the difference between actual and desired cash balances, and supply through the regulating mechanism of the central bank only the amount of money actually desired in the market.

[4] A favorite gambit of presidents seeking reelection is to throw monetary sheets to the wind and expand the money supply, thus inducing a false sense of prosperity among the electorate.

would remain the same. Therefore, the stable gold price would be falling relative to rising general prices. The demand for the relatively cheap gold would create an increasing cash demand for a limited supply of gold. This unique signal of excess cash balances now offered for exchange into gold at the bank would alert the Fed to the danger of inflation.

It is clear that a true gold standard will assure that the supply of money will tend to equal the quantity of money desired for steady economic prosperity. What matters is that the amount of cash balances and the level of interest rates be determined in the open market, not in the Open Market Committee of the Federal Reserve System. There is no need in such a market for monetarist fine-tuning of the money stock through continuous open-market operations. Indeed, the effects of Keynesian fiscal fine-tuning are the same: they create chronic instability of the price level and, in this expansionist era, inflation.●

RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow Messrs. ARMSTRONG and BENTSEN be recognized for each not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, will the majority leader add to that the Senator from Virginia?

Mr. ROBERT C. BYRD. Yes. I add Mr. HARRY F. BYRD, JR., to that request for not to exceed 15 minutes and so ask unanimous consent.

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

Mr. BAKER. Mr. President, I understand that our colleagues from New Mexico wish a little time on tomorrow to eulogize their colleague in the House of Representatives, who died on this morning.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I hope the majority leader then will add to the special orders 15 minutes each for Senator SCHMITT and for Senator DOMENICI.

Mr. ROBERT C. BYRD. I thank the minority leader.

And I so make that unanimous-consent request.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with respect to the orders for the recognition of Senators on tomorrow, Mr. BENTSEN's name appear last on the list.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. JAVITS be recognized for not to exceed 15 minutes on tomorrow just prior to the period for morning business which has already been ordered.

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

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

ORDER FOR THE PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the order for the recognition of Senators, there be a period for the transaction of routine morning business not to extend beyond 2 hours and that Senators may speak therein up to 5 minutes each.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in and dispatch with the orders for the recognition of Senators and with routine morning business, after which the Senate will go out for the August break.

On the 18th of August, upon its return at 11 a.m., the 1 hour under the cloture rule will begin running and at 12 o'clock noon the clerk will be asked to call the roll to establish a quorum, and upon the establishment of a quorum the Senate will vote on the motion to invoke cloture on the committee substitute to H.R. 39.

May I have the attention of Senators because they will be asking questions later?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I thank the Chair.

I hope all Senators will be prepared on Monday, August 18, for what will happen.

If cloture is invoked, and that vote will occur at around 12:15 p.m., the Senate will continue action on the committee substitute to H.R. 39 to the exclusion of all other business until final action on that committee substitute, which means there will be rollcall votes during the afternoon and evening. If the Senate does not invoke cloture on Monday, August 18, the Senate will resume consideration of H.R. 39 under the time agreement listed on the calendar, and we have seen today what may be expected on Monday, August 18 in that event, which means rollcall votes.

I wish to take this occasion to thank all Senators and express my gratitude to Mr. GRAVEL for the cooperation that he has given. He has resorted to a few dilatory motions and tactics today but up until today he passed up a good many opportunities to engage in such tactics and did not choose to do so, and I appreciate that.

I thank all other Senators and especially those who are managing the bill for their cooperation and for their forbearance.

I thank all Senators, I am going to say now there will be no more rollcall votes today and may all Senators have a good August break and may the Democrats nominate the winner for November 4 for this year.

Mr. BAKER. Mr President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield to the minority leader.

Mr. BAKER. Mr. President, I agree with almost everything he said.

But seriously I join him in wishing everyone well.

I might say facetiously I have been telling Senators there will be no more votes since 2 p.m, and I will have a swarm of angry Senators returning on August 18 to hold me accountable for that appraisal. But I thank him for those words.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to the distinguished minority whip.

Mr. STEVENS. I thank my good friend.

Mr. President, I inquire about the Chair's prior ruling with regard to amendments being in order where they hit the bill in more than one place. We had an understanding by virtue of the time agreement as to those amendments that would be in order that were called for under the time agreement, even though they did hit the bill in more than one place. May I inquire from the Chair whether that prior ruling would be modified by cloture, a subject which I might state to the Chair, might be raised by amendments by both Senators from Alaska.

Mr. GRAVEL. Mr. President, I was engaged in a colloquy and I did not hear my colleague from Alaska. Will he repeat his inquiry?

Mr. STEVENS. Under the prior ruling of the Chair, under the time agreement, amendments that were called for under the time agreement could be in order even though they might hit the bill in more than one place. I asked the Chair whether that ruling of the Chair would apply to amendments that would be offered under cloture, assuming cloture is voted by the Senate.

The PRESIDING OFFICER. The invocation of cloture would not affect the ruling.

Mr. STEVENS. I thank the Chair. That applies to Senator GRAVEL's amendments and mine. It does not apply to the substitute. It is not a matter with respect to the substitute.

The PRESIDING OFFICER. That is clear.

THE REVEREND BOB W. BROWN OF LEXINGTON

Mr. FORD. Mr. President, the Commonwealth of Kentucky lost one of its most dedicated spiritual and civic leaders on Monday when the Reverend Bob W. Brown of Lexington was fatally stricken with a heart attack.

Reverend Brown, who served for 22 years as pastor of the Trinity Baptist Church in Lexington, was a good and valued friend of mine who cared very deeply about the well-being of his fellow man. His life was dedicated to service to God and his church and service to all humanity as well.

As Governor, I appointed Reverend Brown to serve on the State Board for Elementary and Secondary Education, a position he held for 8 years. During that period, he made many valuable contributions which improved the quality of education throughout Kentucky, and he directed every ounce of energy he had to making this world a better place for future generations.

He was a graduate of the Southern Baptist Theological Seminary in Louisville and he was active in many organizations, including the Kentucky Bap-

tist Convention, the Kentucky Cancer Commission, Planned Parenthood, Inc., and the Bluegrass Association for Retarded Children.

He is survived by his wife, the former Helen White; a daughter, Amy, and a son, Jeffrey. I extend my heartfelt sympathy to his family.

Mr. President, 4 years ago, Reverend Brown gave the closing prayer at the July 13 session of the 1976 Democratic National Convention. The words of that prayer sum up what life meant to Bob Brown and, as tribute to this individual who left a legacy that will be very difficult to follow, I ask unanimous consent that the prayer be printed in the RECORD.

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

Father, we are grateful for every good thing that we enjoy. We are reminded tonight, as we are so often, that some of us are spectators and some participants. We pray that all of us might find some participating involvement as we have heard a recitation of the Platform of this Party which sets forth the needs of the world in which we live. We ask that you will help us as individuals to get some handle on our own involvement. It is easy for us to speculate and to criticize. It is not quite so easy for us to find our own place.

Help us to use the gifts that Thou has given us, use the opportunities that we have with responsibility. May we serve with faith, hope and love.

Amen.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 7:10 p.m., recessed until Wednesday, August 6, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 5, 1980:

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be a Member of the National Labor Relations Board for the term of 5 years expiring August 27, 1985 (reappointment).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Richard Bryant Lowe III, of New York, to be Inspector General Department of Health and Human Services, vice Thomas D. Morris, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate August 5, 1980:

NATIONAL LABOR RELATIONS BOARD

Don Alan Zimmerman, of Maryland, to be a Member of the National Labor Relations Board for the term of 5 years expiring December 16, 1984.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.