SENATE—*Friday, February 1, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the Honorable LAWTON CHILES, a Senator from the State of Florida.

PRAYER

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

Almighty God, direct us, in all our doings, with Thy most gracious favor, and further us with Thy continual help; that in all our works begun, continued, and ended in Thee, we may glorify Thy holy name, and finally by Thy mercy, obtain everlasting life. Amen.

—Common Worship, adapted.

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., February 1, 1980.

To the Senate:

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

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time at the moment. I will reserve it momentarily in the event a Senator wishes to ask for time.

RECOGNITION OF THE ACTING MINORITY LEADER

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

Mr. TOWER. Mr. President, I yield 5 minutes of my time to the distinguished Senator from New Mexico (Mr. SCHMITT).

Mr. SCHMITT. Mr. President, I thank the distinguished Senator from Texas for his yielding time for the purpose of discussing one of the aspects of the recently completed White House Conference on Small Business.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS ENDORSES THE LEGISLATIVE VETO

Mr. SCHMITT. Mr. President, the White House Conference on Small Business met in Washington recently and included representatives from the small business community of this Nation. Over 1,500 such representatives from every State of the Nation came to debate and vote on legislative recommendations for presentation to the President and to the Congress.

The delegates to this conference were selected by more than 30,000 small business people throughout the country. They came to Washington to present a grassroots view of what changes are needed in the Federal policies to improve the economic environment for small business in America.

In the few weeks prior to these meetings in New Mexico, I hosted, along with the chamber of commerce and other persons and groups, a series of 5 meetings around the State, and I think the feelings of that constituency was reflected well in the 15 recommendations made by the recently completed conference.

High on the list, and included in many of those recommendations, is the great need for incentives for capital formation and for vast regulatory reform that will help the business community in general and small business in particular.

One of the greatest concerns of the small business community is the proliferation of Federal regulation over every aspect of business operations. Federal regulation has grown at an incredible pace over the past 10 years. The Federal Trade Commission, for example, is currently considering rulemaking in over 20 areas. I ask unanimous consent that a partial list of those areas be printed in the RECORD at this point.

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

Mobile homes, funeral homes, protein supplements, eyeglass II (distributorships), used cars, credit practices, nutrition advertising, health spas, over the counter drugs, hearing aids, over the counter antacids, warranties-refunds, thermal insulation, flammable plastics, children's television advertising, games of chance in food retailing and gasoline industries, standards and certification, octane posting, appliance labeling, consumer claims and defenses, and care labeling (textiles).

Mr. SCHMITT. Mr. President, what small business people want is some means for increasing the accountability of their elected Representatives for the quantity and quality of this kind of regulatory law. They realize that it is necessary to have a referee of the free enterprise system, but they believe, as I believe, that it is not necessary to have another manager of that system and of individual businesses.

They have endorsed the legislative veto as a means of correcting this problem of overmanagement of business through unnecessary and costly regulatory law.

On the list of over 300 issues considered by the White House Conference, the delegates selected the legislative veto as 1 of their top 15 priorities. These recommendations will be forwarded to the President and to the Congress in the form of a legislative agenda. The legislative veto recommendation states in part:

The Congress shall exercise line item veto over regulations within a specified time through congressional oversight committees, with one House floor vote.

The legislative veto amendment to the FTC authorization bill that the distinguished Senator from Georgia (Mr. NUNN) and I have introduced along with 35 other cosponsors would accomplish this objective articulated by the small business community. The legislative veto that we propose would allow the Congress to reject the regulatory recommendations of the Federal Trade Commission within a limited 60-day time period. If no action is taken by either House of Congress, the rule would automatically go into effect with the tacit approval of the Congress.

If one House acts to disapprove a rule, the rule will be vetoed unless the other House overrules the veto action within a 30-day period following the first action.

The House of Representatives recently voted to add a legislative veto provision of this nature to the FTC authorization by an overwhelming vote.

I hope the Senate will heed the call of America's small businessmen as the House of Representatives has done, and that we will act promptly to implement this important recommendation of the White House Conference on Small Business, along with action on many other fine recommendations of that conference.

The White House Conference on Small Business has arrived at its recommendations through a long and comprehensive process that has tapped into the mainstream of American opinion, professional, business and consumer.

Mr. President, I ask unanimous consent that the foreword to the conference agenda which describes the year-and-a half-long procedure through which these recommendations have been formulated, be printed in the RECORD at this point.

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

THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS

FOREWORD

Early in April, 1978, President Jimmy Carter called for a White House Conference

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

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on Small Business in an effort to build a new awareness across the country of the importance of small business in the national economy. He stated that "such a conference can help us identify the many special problems facing small business and design a course of action that can address these problems in a constructive way."

This call by the President resulted in a conference process which will ultimately result in a series of proposals charting a course for federal policies impacting small business for the decades of the 1980's and 1990's. The process was designed to provide maximum participation by small business owners in identifying issues, in developing proposals for consideration by the Conference, and in formulating the final recommendations which will go to the President in the spring of 1980.

The following papers, which constitute the issue agenda for the Conference, are the product of a year-and-a-half effort that has involved over 30,000 small business owners from every state.

The initial stage of the Conference was a series of 57 Open Forums and Regional Meetings held in cities throughout the country. These meetings identified issues of concern to small business and elected delegates to attend the National Conference. The second stage was a series of ten Regional Delegate Caucuses held in the fall of 1979. In these caucuses, delegates reviewed issues, options and proposals, advised on priorities, and offered suggestions on the formation of the issue agenda for the National Conference.

The culmination of these first two stages will be the National Conference to be held in Washington, D.C., January 13–17, 1980. During these five days, delegates will work through the issue agenda and develop recommendations for presentation to the President and Congress that should significantly influence the future of small business in America.

The structure of the National Conference has been designed to create a work atmosphere and a solution-oriented work process. The Conference will be a combination of general sessions, issue workshops, and open forums. To insure that each delegate has an opportunity to participate effectively and contribute substantively, the program has been structured so that each delegate may work in depth on the two issue areas of his or her choice.

The main work of the Conference will be accomplished in issue workshop sessions led by delegate moderators. Each of the major issue areas will be divided into small discussion groups to ensure maximum participation by delegates. All workshops within an issue area will follow the same agenda. The workshop process will culminate in the production of issue reports, the highlights of which will be presented in the final general session and provide the basis of the final report to the President.

The Conference process has been long, fascinating, informative and productive. The issues and recommendations that have emerged for Conference deliberation have surfaced through an open process that should prove to be a model for the development of public policy through the democratic process.

Mr. SCHMITT. Finally, Mr. President, as we approach consideration of the Federal Trade Commission authorization for fiscal year 1980, I hope my colleagues will begin that very necessary process of considering the various proposals that will be before us, and in particular considering the legislative veto as a necessary and constitutional formulation of the Congress responsibility to review the making of law in this Republic.

I again thank the distinguished Senator from Texas for yielding, and yield back any time remaining.

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

Mr. ROBERT C. BYRD. Mr. President, I would like to claim my time that I had passed earlier.

GAS RATIONING: OUR FIRST LINE OF DEFENSE

Mr. ROBERT C. BYRD. Mr. President, the dual crises in Iran and Afghanistan have, once again, brought into focus the unquestioned necessity for a standby gas rationing plan. Last spring, the reality of long gasoline lines and fuel shortages brought us to the verge of a national cris's. Now the specter of disruption and disorder in the Persian Gulf region has raised again the necessity of contingency planning. As we witness the unveiling of new military programs and anticipate increasing our defense commitment, we must bear in mind that emergency energy preparedness at home is our first true line of defense.

The President has indicated that a new rationing program will soon be forwarded to the Congress for review. Under the new authority incorporated in the Emergency Energy Conservation Act, passed last year under the leadership of Senator JACKSON and Senator JOHNSTON, a plan is deemed approved unless both the House and the Senate pass resolutions of disapproval. This mechanism is designed to expedite congressional review of a proposed rationing plan, with recognition of the urgent need which might compel quick action.

Last year, the Congress considered a proposed rationing plan but the exercise was futile. Although approved by the Senate, the plan was defeated in the House. Parochial concerns overran the national interest. It is my hope that greater reason will prevail this year. Each American will be asked to sacrifice some comforts and conveniences in the event an emergency threatens the supply of oil from the Middle East. We must remember the sacrifices of others, who will stand to lose far more if our national security interests are jeopardized.

There is no question that domestic energy consumption must be reduced drastically, and that it must be done soon. We have made significant steps in that direction in the last 12 months—reducing our overall petroleum consumption by more than 8 percent and our gasoline consumption by more than 5 percent. But we must do much more if we are to reduce our reliance on foreign oil altogether.

There is no way to predict events which may require immediate implementation of a gas rationing program. We do know, however, that our line of supply is vulnerable to outside incursion or internal disorder in the Middle Eastern States. This means that we must be ready if the need arises.

We must take all steps necessary to put a rationing plan in place, including appropriation of funds which are required to get this complicated program on line.

We must also be realistic about extent of the emergency which may require quick action. Legislation passed last year sought to define the extent of the emergency which might trigger rationing. Although this extreme remedy would inconvenience all of us, we must look realistically at the circumstances which might require this type of national cooperation.

Mr. President, I hope that the new rationing program will be forwarded to Congress for review as soon as possible by the President.

Mr. President, I have no further need for time. I yield back my time.

RECOGNITION OF SENATOR PELL

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized under the previous order for not to exceed 15 minutes.

RESPONDING TO THE SOVIET INVASION OF AFGHANISTAN

Mr. PELL. Mr. President, President Carter and many other world leaders have correctly condemned the Soviet Union's savage invasion of Afghanistan to "rescue" that country from a likely victory by Afghan patriots and anti-Communist freedom fighters. The Soviet invasion is in direct violation of the Charter of the United Nations and raises the possibility that the Soviets will invade or subvert other countries in the vital Persian Gulf area. In fact the United Nations vote on this matter shows 104 nations condemning, 18 approving, and 30 abstaining or not voting.

I agree with President Carter that firm action must be takan to defend our interests in the Persian Gulf area, and, for the most part, I support the specific steps that he has already announced. But in pondering what the next step should be and the one after that, it is important, in my view, to act only in concert with our allies and friends with interests in the area. This is particularly important if, as President Carter announced in his state of the Union address, we are to be prepared to use military force in defense of our interests.

Unilateral action by the United States or American action which has only verbal or halfhearted support from other NATO members and Japan and other Asian powers will be neither effective nor credible. When we act jointly, as we did in Korea, reasonable success rewards our efforts. When we try to go it alone, as we did in Vietnam, then failure is our lot.

Even more important, the interests of Europe and Asia are more at risk than are our own because of their greater dependence on oil from the Persian Gulf.

While we must be the leader in deterring further Soviet expansionism, we ought not to announce that we are prepared to go to war—and that this is what the President really means when he says that "an assault will be repelled by use of any means necessary, including military force"—until it is clear that other governments share our view of the Soviet threat and are prepared to join us in defending our common interests in Southwest Asia. We must bear in mind, in this connection, that the Soviet Union has a preponderance of conventional military power in the area and, as a result, we cannot realistically expect, or be expected by others, to deal with the Soviet threat alone.

I am very disturbed both by what I have heard and by what I have not heard to date in response to the Soviet invasion. The administration speaks boldly of sending millions of dollars' worth of military aid to Pakistan, of increasing the defense budget by billions of dollars, of the need for new base rights, and of the need to expand our present base on Diego Garcia. All of this may be necessary, but I believe it is unwise and futile to proceed with these plans until it is clearer that other governments are prepared to join us in running the risk of a military confrontation with the Soviet Union. What we decide to do should be directly conditioned on support from others.

So far, I have not heard much in the way of specific actions of support from our allies and friends around the world. Administration spokesmen exude optimism about what our NATO allies, Japan, and others will do; but, so far, there is little in the way of substantive commitments. I am not entirely surprised by that, because we have not done much to bring about a consensus concerning the nature and imminence of the Soviet threat and what the appropriate response should be. To my mind, it is putting the cart before the horse to send our Deputy Secretary of State abroad with a list of what the Europeans should be doing before the consensus I have just described has been achieved. If we are really facing the greatest threat to world peace since World War II, as our administration claims, I do not understand why we have not called an emergency ministerial meeting of NATO to discuss the threat and what should be done about it.

If we cannot forge a united front with our allies and friends, how can we expect the American people to support a high-risk policy in a faraway area that, while highly important, is not, frankly, vital to our existence as a modern industrial society? In this connection, a clearer administration exposition of exactly what is at risk, both for the United States and others, is required. It is not enough to speak in sweeping generalities about the meaning of the Afghanistan invasion.

At the same time that we embark on a program to demonstrate to the Soviets that they must expect to pay a price for aggression, we ought not to cut off our lines of communication and cooperation, where that is possible, with the Soviet Union. In particular, we should not panic in thinking that détente is dead or that the "Cold War" has returned. It will have done some good if the invasion of Afghanistan weans us from the recent alternating cycles of optimism and despair in our relations with the Soviets. The Soviets, even during the days of the most euphoric view of détente, never abandoned their ruthless concept of power and diplomacy; nor did they foreswear taking advantage of opportunities at hand. We are two superpowers living in uneasy proximity on planet Earth and so, willy-nilly we must continue to do business with the Soviets. But, we must do so in the context of firmness on our part, and that of our allies and friends; and our attitude must be clouded by sentiment or self-deception regarding what we can expect from the Soviets.

Returning, in this connection, to the specific actions that the President has taken, I support them for the most part, but I am deeply concerned about the wisdom of curtailing the exchange program. We are the ones who benefit from this program at both ends of the exchange, particularly in the area of scholarly exchange, which adds vitality to our knowledge of the Soviet Union. It has also been my experience that, the more Communists who visit this country, the better, as long as they return to where they came from. I have rarely seen a Communist go back to his home country more convinced of the rightness of communism after a visit to this country, and that is a plus for us in the long run, in more ways than one.

I also believe that another nonmilitary retaliatory option has been overlooked, and that is to step up the capability of Radio Free Europe, Radio Liberty, and the Voice of America to broadcast news about the Soviet invasion and to present our views on the situation. All of the radios have increased their broadcasts into the Southwest Asian area following the invasion, but they all need more and better transmitters to reach wider audiences. Also, in the case of VOA, a further strengthening of language capabilities is needed.

The radios already have their needs formulated, but funding is required. For RFE/RL, the amount needed is about $100 million and for VOA, about $60 million. At the same time that the Pentagon is asking for billions of dollars of additional spending, the radios' needs are extremely modest, yet they pay high dividends in generating public understanding of and support for our story around the world.

We must also not overlook diplomatic opportunities to defuse the Afghanistan crisis. In this regard, I trust that a major effort is being made to convince India, which is the Soviet Union's closest friend in the non-Communist world, to exercise its influence in Moscow in an effort to secure an early withdrawal of Soviet forces from Afghanistan. We also ought to encourage close cooperation between India, Pakistan and Iran in developing common, or at least compatible, policies vis-a-vis the Soviet threat.

Speaking as one Senator, I should be reluctant to support any of the military options now being considered by the administration, including aid to Pakistan, until satisfactory answers are provided to the following questions:

What are our specific interests and objectives in Southwest Asia?

To what extent are they shared by countries in the immediate area? By China? By Japan? By our NATO allies?

To what extent is there a shared view on the part of all nations with interests in the area concerning what ought to be done and who should do what?

To what extent is the administration prepared to act unilaterally or with minimal outside support? How does that affect our prospects for success?

What are the administration's views as to the correct balance between diplomatic and military initiatives?

I would hope, too, that in securing the answers to these questions and, generally, in the formulation of our policy, we would bear in mind the words of George Santayana, "Those who cannot remember the past are condemned to repeat it."

In this regard, Vietnam was probably our greatest foreign policy error in this century and I hope that at least equal weight will be given to the views and advice of those who had the foresight to oppose our Vietnam policy, men like Clark Clifford, William Fulbright, George Ball and Sam Brown, as to those who developed and executed that ill-conceived venture. And here I cannot help but observe that most of those responsible for developing our present foreign policy fall in this latter category.

I do not envy our President, who is faced with a brutal Soviet adversary and an overwhelming flood of both domestic and foreign problems. I wish him well in his efforts to resolve them and believe that with his own intelligence, a steady hand at the helm, and sound counsel, he can steer us through the turbulent seas that surround us.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 109

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. WEICKER, for good reasons, will be detained for a little while. I, therefore, am about to ask unanimous consent that the Senate stand in recess until 1 p.m. But, before doing so, I ask unanimous consent that upon reconvening of the Senate today following a recess, the Senate then proceed to the consideration of Senate Resolution 109, regarding the Ethics Committee.

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

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate, at 12:22 p.m., recessed until 1 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

OFFICIAL CONDUCT AMENDMENTS OF 1979

The PRESIDING OFFICER (Mr. BRADLEY). Under a previous order, the Senate will now proceed to the consideration of Senate Resolution 109, which the clerk will state by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 109) to limit the functions of the Select Committee on Ethics to investigations of improper conduct, to simplify financial disclosure requirements, to repeal the limitation on outside earned income, and for other purposes.

The PRESIDING OFFICER. Debate on this resolution, including all amendments, debatable motions, appeals, or points of order and motions to recommit shall be limited to an overall time of 4 hours, to be equally divided and controlled by the Senator from Connecticut (Mr. WEICKER) and the Senator from Connecticut (Mr. RIBICOFF).

Mr. WEICKER. Mr. President, I send to the desk an amendment in the nature of a substitute to Senate Resolution 109. The first amendment amends all after the resolving clause; the second amendment proposes a preamble; and the third amendment amends the title of the resolution. I ask that the amendments be read.

The PRESIDING OFFICER. The Chair will inform the Senator that amendments are in order only to the body of the resolution at this time, except by unanimous consent.

Mr. WEICKER. Well, Mr. President, I ask unanimous consent that the three amendments, as described, be sent to the desk, be read and become the pending business.

The PRESIDING OFFICER. Is there objection?

Is it the Chair's understanding that the Senator is proposing amendments to the preamble and the title at this time and wishes them to be considered?

Mr. WEICKER. Mr. President, it is the understanding of the Senator from Connecticut, in order to modify his amendment, what he has proposed here is in the correct parliamentary form to accomplish the amendment of a Senate resolution.

The PRESIDING OFFICER. The Chair will inform the Senator that amendments to the body of the resolution are in order at this time.

Mr. HEFLIN. Mr. President, we have no objection to any amendments.

The PRESIDING OFFICER. Ordinarily, amendments to the preamble or the title would have to be offered after the amendments to the body of the resolution, and after the resolution is agreed to.

Mr. WEICKER. Mr. President, the Chair is suggesting that the first amendment, which amends all after the resolving clause, be acted upon first and, if then acted upon favorably, the Senator from Connecticut should amend the preamble and then the title of the resolution?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 952

(Purpose: To direct a comprehensive review of the Senate Code of Official Conduct by the Select Committee on Ethics)

Mr. WEICKER. Mr. President, I send my amendment amending all after the resolving clause to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 952 in the nature of a substitute.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike out all after "*Resolved,*" and insert the following:

That the Select Committee on Ethics is authorized and directed to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators and officers and employees of the Senate. The Select Committee shall report the results of such comprehensive review to the Senate at the earliest practicable date, but not later than November 15, 1980, together with its recommendations for changes in the Code and such provisions.

Mr. WEICKER. Mr. President, the substitute I am offering today to Senate Resolution 109 directs the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators and officers and employees of the Senate. The Select Committee would report the results of its review, together with its recommendations for changes in the code and ethics provisions, not later than November 15, 1980.

Mr. President, my colleagues know of my strong interest in simplifying and strengthening ethics regulation in the Senate.

Three years ago, during debate on Senate Resolution 110, I argued that full financial disclosure should be the foundation of Senate ethics.

I will now read from a portion of that debate:

Full financial disclosure must be recognized as the force and essence of ethics regulation in the Senate. We must fashion a code of ethics which provides the media, the voters and political opponents with every significant fact which bears on the conscientious performance of official duties of an incumbent or candidate. Compelling each Member, candidate, and key staff member to reveal to public scrutiny a complete history of financial dealings is the most credible and legitimate role we can play.

My amendment substituting full financial disclosure was not accepted, however. Instead, the Senate adopted Senate Resolution 110, the Official Code of Conduct, on April 1, 1977, having previously adopted Senate Resolution 4 (amending S. Res. 338) regarding enforcement and administration of the code and investigations of improper conduct.

Since adoption of Senate Resolution 110 in 1977, the Select Committee on Ethics has had 3 years of experience with the code, and with the administrative structure of the ethics system in the Senate.

The experience of those members who have served on the select committee, including myself, and those who come under its rules and regulations, has been marked by frustration and confusion in many respects. As an example, the select committee has found it necessary to issue more than 200 rulings interpreting the code; these hairsplitting interpretations often offer no meaningful guidelines for members or staff.

My purpose in offering this substitute amendment is to commit the Senate to the difficult process of reviewing the code and related ethics provisions in an expeditious and forthright manner. Up to this point, the Senate has addressed aspects of the code only on an incremental basis, rather than through a comprehensive review.

I have great respect for the chairman of the select committee Senator HEFLIN, and the ranking minority member, Senator WALLOP, and also for the able committee staff. In no way should my proposal for a comprehensive ethics review be construed as a reflection on the leadership or initiative of the select committee. Rather, I believe the entire Senate should go on record in support of a comprehensive review process to be conducted by the select committee, under the leadership of Senator HEFLIN and Senator WALLOP, with a clear understanding that the full Senate will act on the recommendations contained in the committee report. Though the responsibility for the study falls on the committee, all Senators should contribute their views to the committee's deliberations and carefully consider their report and recommendations. Ethics in the Senate requires the full attention of all Members.

Mr. President, I commend the interest of Chairman HEFLIN and Senator WALLOP, and the other members of the select committee, in streamlining and strengthening the ethics process in the

Senate. I believe a comprehensive review of Senate ethics regulation as proposed in my substitute amendment offers a sound framework for that process.

Mr. President, I have, over the course of the past 2 years, developed, prepared, and in fact offered in Senate Resolution 109 specific proposals to amend the code. Several factors, however, have converged to have me offer this as a substitute for those specific recommendations.

First, is the new leadership of the Ethics Committee itself. It is a leadership which I have complete admiration for and complete confidence in. Yet this leadership has only recently gotten aboard as the guiding influence on the deliberations of that committee.

Second, it is an election year. I dare say that even to change a comma or a period of an ethics code during an election year is a nerve-racking experience for the Senator that is up for reelection, for fear that he or she would be accused of trying to weaken or diminish the strength of the ethics code.

Third, obviously again this year, deliberations on a revision would be required by the entire Senate, the Ethics Committee included. I do not think that the body will give sufficient attention this year to the detail which is required in the amending of this act.

For these reasons, I have decided to offer this substitute. It mandates that the committee, with 3 years of experience behind it, develops its own comprehensive recommendations, with input from this entire body.

Having said that, I have no less a firm belief in what needs to be done today as I did last year or the year before. What was enacted out here on the Senate floor 3 years ago was a play to popular opinion, to having the public believe that we had done something to cleanse ourselves of what I do not know, but that we had done something.

It was great public relations. But, like anything that is more public relations than substantive, it has had its price. There is not one Senator who has served on the Ethics Committee who, within 2 months, does not want to get off that committee. Why? Because he was sent here not to spend time overseeing his colleagues, but, rather, to represent the interests of his constituents. The minutia and the intricacies of what has to be resolved on the Ethics Committee is of the most time-consuming nature, far more so than that required by any other committee in the Senate.

It has to be asked whether or not the Code of Official Conduct is accomplishing the job it was intended to do. Again, here, in the matter of disclosure, I think the answer has to come forth: clearly not. Even though there is disclosure, it is of such a complex nature that for the public, never mind the media, to comprehend it becomes a full-time job on their part, which I am not so sure they are willing to devote. Disclosure on the part of us should be simple; its understanding should be simple.

It is well known that my feeling has been that this can be accomplished by making public each of our tax returns, with the exception of charitable donations and deductions for medical expenses, accompanied by a certified net worth statement, listing in detail—never mind categories but detail—all holdings, all assets, all liabilities. Then we could let each constituency decide what is ethically proper.

It could well be that in the State of Maine no outside income is viewed as the proper course. It may be that in a Midwestern State it is desired that their Senator earn outside income from farming. But let the constituency decide.

I cannot sit here and answer these questions, and it is not for me to do so. It is for the people of Maine or the people of Minnesota. This can not be accomplished by six or eight Senators. It can only be accomplished by the constituency itself, and only if that constituency has all the facts available and in a form that is readily understandable.

Three years have gone by and I do not think the urgency of catering to the public image is among us any more. I think it is likely that everybody has lost total interest in this subject, Senators and the public alike. But I have not, because a bad law is worse than no law at all, and this is a bad law.

It will only get worse, as it is not adequately enforced due not to willful intent, but by virtue of its complexities.

So I would hope that, with the new leadership coming aboard the Ethics Committee, the committee will address itself to this most important subject.

How many Members remember the day we passed the ethics legislation? Our great and good colleague from Minnesota, Hubert Humphrey, stood up and after we had passed the legislation made the statement that in order that we might all understand what we had passed a synopsis of the legislation should be written.

Well, I think we are past the point of any synopsis being written. Indeed, it has been written by the sweat and blood of the staff members and various Senators who have served on the Ethics Committee. But I do think we are at the point where review of this legislation is necessary. We are at a point where we can act as a body, where all voices can be heard, and where nobody is going to be accused of weakening the ethics legislation. We have matured from enacting what was a public relations exercise into enacting a law which can be administered, which can be obeyed, and which can be understood.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, speaking as chairman of the Rules Committee, our committee is very interested in this proposal and in the substitute amendment. My hope is that the chairman of the Ethics Committee and the Senator from Connecticut may come to a common agreement and, if they do, I would look forward very much indeed to supporting that agreement.

Mr. HEFLIN. First, let me thank the distinguished Senator from Connecticut for his kind remarks about my background and about me personally. I deeply appreciate it and, hopefully, I can measure up to the high standards and expectations he has expressed.

Mr. President, I believe there is much merit to many of the suggestions and thoughts of Senator WEICKER about the Ethics Committee and its function, and I think his suggestions should be carefully considered as we attempt to seek improvements in the Ethics Committee's operations.

The Ethics Committee is a committee that is bipartisan in its organization. In its charter, it is directed to be bipartisan and nonpolitical. Senator WALLOP is the vice chairman, and I am the chairman of the Ethics Committee. This committee is the only committee in which there is an equal number of members from the Democratic Party and the Republican Party. Perhaps the only partisan aspect of the committee's organization is that the party, the majority party, names the chairman. The vice chairman, of course, comes from the party that is not in the majority. Under the charter and the rules adopted by the committee, the chairman cannot do many of the things usually reserved to the committee chairman of other committees. In reality, leadership of the Ethics Committee is a joint effort of the chairman and the vice chairman, since they have to agree on most matters of concern with respect to the operation of the committee.

So, on behalf of Senator WALLOP and myself, I express support of Senator WEICKER'S proposal as modified, which would direct the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation.

There is a basis in the committee's own charter for a review such as the distinguished Senator from Connecticut proposes. Senate Resolution 338, as amended by Senate Resolution 110, the authorizing resolution of the select committee, states that it shall be the duty of the committee to recommend to the Senate, by report or resolution, such additional rules or regulations as it shall determine to be necessary or desirable to assure proper standards of conduct by the Members of the Senate and by the officers or employees of the Senate in the performance of their duties and the discharge of their responsibilities.

From personal experience, I am aware of the value that such a review could have to the Senate. In my position as the chairman of Alabama's first Ethics Commission, I have experienced, as I shall elaborate a little later, a study of ethics as applied in the public sector. I have already expressed my own intent to take a look at where we are today, not only with respect to the Senate's Code of Official Conduct and what measures might be suggested to improve our ethical procedures, but also with various other matters within the jurisdiction

of the Select Committee. At the time of my appointment as chairman, several interviewers asked about plans or ideas I had changed which might need to be made. At this time, I would like to submit for the RECORD several of these newspaper articles, which are the result of interviews I gave on this subject.

First, I want to submit for the RECORD a copy of the Enquirer of Columbia, Ga., which is a city that borders on Alabama, dated November 1, 1979, entitled "Heflin Plans Ethics Changes."

Next, I should like to submit a copy of a November 8, 1979, clipping from the Roll Call, the newspaper of Capitol Hill, in Washington, D.C., entitled "Heflin: He Will Remodel Ethics."

Another article I want to introduce is from the January 1, 1980, the Birmingham News, and is an interview pertaining to some plans that I have concerning studies and possible changes in the ethics laws, ethics rules and procedures.

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

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

[From Roll Call, Nov. 8, 1979]

HEFLIN: HE'LL REMOLD ETHICS

(By Keith Petersen)

Senate Minority Leader Howard Baker (R-Tenn.) called the chairmanship of the Senate Ethics Committee "at best, a thankless job," and after the committee's 16-month investigation of Sen. Herman Talmadge (D-Ga.), few would disagree.

But new chairman Sen. Howell Heflin (D-Ala.) doesn't see it that way at all, and has major revisions in store for the entire realm of Senate ethics.

"Everybody says, 'Well, nobody else will take it.' Well, I say, 'You talk to at least one of them that they offered it to.' I think that you'll find that a good number of them would have jumped at the opportunity."

Howell Heflin hurriedly strides into his Senate office. The rigors of a too-long day—rallying support for a helicopter training base in Alabama and handling inquiries about the seizure of the American Embassy in Iran—are evident. The massive Senator (calling him portly is like calling Alexander great) has been vaulted from the freshman curse of anonymity to a bona fide public figure. He sits back in a chair, puts a foot on the desk, and begins.

"I had had an interest in it (ethics)," the former Alabama Supreme Court Chief Justice says. "I served as the chairman of an Alabama ethics commission for about two years back in the 1960s and we made a study of ethics and drafted some legislation that was later adopted."

The first freshman senator to chair a committee since Sen. Coe Crawford (R-SD) chaired the Committee on Expenditures in the Interior Department in 1909, Heflin punctuates his soft drawl with many pauses.

"I sort of got interested in it. It has probably the most similarity to a judicial post of anything in the Senate. It's a job that has some attraction for me."

Heflin plans to change the structure of the Ethics Committee, and hopes to simplify the Senate ethics code.

"The way it's organized now," he says, "it's a grand jury and a trial jury, and definitely no court would allow a juror who sat on the grand jury to serve on a trial jury. From a structural viewpoint of the judiciary, I've got a lot of problems with the way it's organized . . . I've talked to several of the members (of the committee) about it and other Members of the Senate about trying to work towards what I call due process or inherent fairness.

"I don't think you can investigate something and not have cross-examination and non-oath testimony and then later it's oath testimony. It just causes me problems," he adds.

"I would like to separate them—in other words, let the present Ethics Committee have its principle function of being investigatory and charging body and hand down advisory opinions. I would then try to come up with some type of a trial body.

"Now there have been three suggestions that I have heard floating around," he says. "One would be an ad hoc committee of Senators. As each case would come up, they would be appointed to do that trial and make the recommendation to the Senate. The other would be to use former Senators and a third one would be to use hearing examiners such as retired judges or bring in some body of that sort.

"Those last two may have some Constitutional problems with them," he warns. "The Constitution confers the responsibility on each House of the legislative body to handle the misbehavior of their colleagues. . . . Now I haven't gone into it thoroughly as to whether or not that language could cause you a problem of bringing in, say, former Senators or bringing in trial examiners."

Aside from separating the committee's functions, Heflin also seeks to bring the mass ethics regulations together into one source.

"You go to three books in the things (ethics regulations). You go to the Ethics in Government Act, you go to the Federal Elections Law Act, and you go to the Rules of the Senate dealing with ethics. Now, I haven't made the study of it but I understand that there are really some conflicts between them, and that what I would do is somehow or another, consolidate or codify those into one book or into one act," he says. "If there are exceptions that would have to be made, they could be.

"The rules that come out of the Rules Committe define a great deal of what is legal and what is not pertaining to financial matters, so you've really got four different sources that you've got to go to. And my idea would be to some way or another codify that into one book," he adds.

The "clubbish" atmosphere in the Senate, that some people have criticized, is natural, Heflin says.

"Anytime you have close relationships, and the Senate is not an overly large body, then there are natural friendships that develop. There is, in the legislative function, the inherent element of backscratching—'You vote for me, I will owe you one.' That sort of thing comes up, and I don't think it's a disease of the United States Senate. I think it's a disease of that type of structure," he remarks.

"And there is obviously that clubbiness."

But that, he adds, is somewhat neutralized in ethics considerations.

"You've got two forces," he says. "The publicity of the case plus the closeness that comes as a result of a body like that (the Senate)."

Just how the style of the Senate Ethics Committee will change, now that the requests of former chairman Sen. Adlai Stevenson (D-Ill) and former vice-chairman Sen-Harrison Schmitt (R-NM) have been honored, Heflin says, "remains to be seen."

Sen. Malcolm Wallop (R-Wyo) was named to fill Schmitt's vacancy.

Heflin, a trial lawyer from 1948 to 1971, Chairman of the Alabama Ethics Commission, Chief Justice of the Alabama Supreme Court from 1971 to 1977, freshman senator, chairman of the Senate Ethics Committee, leans back again.

"Quite obviously, for a freshman Senator to be selected as a chairman of a committee sounds good back home. I've noticed they pay a little more attention to me here in the Senate. I think it gives me a little more clout with the Senators; they'll listen to me. Usually, they don't pay much attention to what you're saying. I think they do a little more now."

Howell Heflin used to be just another one of the 19 freshman Senators, nameless and faceless. Now he's become one of the most visible.

[From the Columbus Enquirer, Nov. 1, 1979]

HEFLIN PLANS ETHICS CHANGES

(By Christopher Bonner)

WASHINGTON.—Sen. Howell Heflin, D-Ala., was confirmed Wednesday by the Senate as chairman of the Select Committee on Ethics and indicated he hoped to bring some changes to the panel.

The Alabama senator became the first senator in 70 years to head a standing Senate committee during his first year in office.

Heflin succeed Sen. Adlai Stevenson, D-Ill. Sen. Malcolm Wallop, R-Wyo., was named by the Senate to take the place of Sen. Harrison Schmitt, R-N.M., as committee vice chairman.

Both Stevenson and Schmitt had frequently expressed their desire to leave the six-member committee, which they led during its 16-month investigation of the finances of Sen. Herman Talmadge, D-Ga. Talmadge was denounced by the Senate earlier this month for improper financial conduct.

The last senator to win a committee chairmanship during his first year was Coe Crawford of South Dakota, who in 1909 was named to head the Senate Committee on Expenditures in the Interior Department.

The chairmanship of the Ethics Committee, however, is not avidly sought. Few senators are eager to take on the delicate task of judging the conduct of their colleagues.

Heflin did not comment during an interview on the committee's conduct of the Talmadge investigation. But the former Alabama chief justice left no doubt that he would handle future such inquiries in a different way.

Heflin said he was disturbed that the committee functions as both a grand jury, bringing charges against a member, and then as a judge.

"Those functions ought to be separate," Heflin said. He said he was uncertain now how to reform the procedure, but that perhaps a separate group of senators could be named to hold trial-like hearings, or that retired senators could be asked to serve as a jury for hearings.

Heflin said he was confident the Senate could adequately police the conduct of its members. "The only thing you have to guard against is the club-like approach," Heflin said.

In the past, the Senate has been criticized for closing ranks behind a member accused of wrongdoing. Talmadge was the first senator in 12 years about whom ethics hearings were held, and his investigation was the longest in Senate history.

Heflin said he had a reputation as a judge who moved expeditiously and he indicated that any future hearings would be conducted swiftly.

One of the problems illustrated by the Talmadge hearings was the vast array of rules a senator has to follow regarding conduct. Heflin said he wants to simplify the rules.

"Now there are the rules of the Senate, the Ethics in Government Act and the Federal Election Commission act that a member has to follow," Heflin said.

"There are some conflicts between these rules and some ambiguities," he added. "There should be uniformity."

Heflin, 58, who is called "judge" by his staff members, was offered the Ethics chairmanship in January but declined, saying at the time he had only been a senator one month.

[From the Birmingham News, Jan. 1, 1980]

ETHICS CHAIRMAN: PEOPLE EXPECT HONESTY

(In an exclusive club where seniority is everything, freshman Sen. Howell Heflin of Alabama had the unusual honor this year to be picked to chair a major Senate committee.

(As chairman of the Senate Select Committee on Ethics, the former Alabama Chief Justice will be the chief watchdog over the conduct of his colleagues—a job most senators shy away from.

(Birmingham News Washington correspondent Tom Scarritt recently discussed the new responsibilities with Heflin).

PACE. Senator, as chairman of the ethics committee, you are going to be overseeing the ethics of all your colleagues. What do you think the people expect in terms of ethics from their elected officials? Is there something special that they expect?

HEFLIN. Well, I think people expect basic honesty and integrity. I think if you ask the question "Is this honest? Is it right?", it solves most of the ethical problems.

There are, of course, other matters that come up, some details. I think sometimes we have too many laws and too many regulations and that causes confusion. Right now, the Senate's ethical conduct, in effect, is controlled by three laws.

One is the ethics in government (act), which affects the House of Representatives, the Senate and the executive branch of government—all the agencies. But there are particular provisions dealing with congressmen and senators.

Then you have the rules of the Senate, which deal with ethical conduct, disclosure (and) other matters. In addition to that, when you become a candidate then the Federal Election Commission law controls. If a senator runs for reelection, there are certain things that he has to do in regards to the Federal Election Commission.

So there are really three different laws. It would seem to me we could simplify them into two, at least, rather than three. It would make it easier to understand. Some of them have gotten so technical it's just an impossibility for any senator to know every one of them. They need to be clarified.

PACE. These three laws do put some special requirements on members of Congress that are different from what is expected of private citizens. Do you think this is a good idea?

HEFLIN. Well, I think there is a need for more requirements on a person that's in government than there are on a private citizen. I think a private citizen's business is his business.

These rules and laws also affect my wife. My wife says she doesn't think it's any of their business what she may own or what she may do with her money. But on the other hand, a husband could put everything in the wife's name. So there are reasons why they are that way.

I think there is a necessity for additional ethical requirements on the part of participants in government, as opposed to the average citizen.

PACE. Do you sense that there is a strong interest among citizens in the ethics of the Congress?

HEFLIN. To some degree. It's not a primary interest. For example, we file disclosure statements and the press will generally run a story on it.

The present disclosure laws, in my judgment, are confusing and ambiguous. You put (the value of your holdings) into categories. If you own your home, the category that it may be in is from something like $15,000 to $50,000. It could be worth $50,000 and it could be worth $15,000. That's a lot of leeway.

Some of the categories for valuation of stocks or for real property are, say, from $100,000 to $250,000. Well, that category is a broad category of $150,000.

I frankly don't see why you've got to have those broad brackets. It would seem to me you ought to just disclose the fair, reasonable market value of the house or the acreage that you own or the stock that you own. I don't really see why it ought to be in categories like it is at the present time.

PACE. Among your colleagues in the Senate, do you see an interest in ethics?

HEFLIN. Yeah, I think so. They passed (ethics laws). They continue to make them. The history has been that each time it comes up, they make them more stringent.

There's an interest in it. Some of it, you know, gets to the point where it is burdensome. You have certain things, for example, you're prohibited from accepting—gifts from certain people.

Then, on the other hand, there are exceptions to it. If it's an educational seminar—that is, travel, for example, where there is reimbursement for travel—you have to disclose those reimbursements. Some of it's prohibited and some of it is allowable. The distinction between the two, as to what is prohibited and what is allowable, but still reportable, varies and sometimes there's not a lot of rhyme or reason for that.

PACE. Do you think the senators want to be ethical?

HEFLIN. Oh yeah, I think the vast majority do. I'm sure you've got bad apples in the Senate just like you do any time you get a hundred people together. You're going to have some wherever they are. Even if they're newspaper reporters, you might have some bad apples in the lot.

I think any time you get a group of people together—435 members of Congress and 100 senators—out of those 535 members you're bound to have some bad apples.

PACE. How do you see your role as chairman of the ethics committee—are you the judge, the prosecutor or what?

HEFLIN. I think the present system by which the ethics committee of the Senate is organized is bad. I think that you have got to separate your investigating and charging function from your trying function.

It's sort of like a jury—I don't think the same body ought to be the grand jury and the trial jury.

Presently, the ethics committee is organized by which they are the investigator, they're the charger, they're the grand jury. Then they have the responsibility of being the prosecutor and then they have the responsibility of being the trial jury.

I think you have to separate those functions. I think due process of law requires that inherent fairness. You can't erase from your mind matters of hearsay that you heard in an investigative capacity. When you're in a trial jury function, the hearsay is not admissible.

The human mind can't remember what was admissable and when he heard it and that sort of thing, but it remains a fact.

So I have an idea of trying to separate it, which would mean that the trial jury function of the ethics committee would probably be done by another body. This could be either an ad hoc committee of senators appointed—and really in the last 10 years there've really been only three real trials. There's been Dodd, Senator Dodd of Connecticut, you then had Senator Brooke of Massachusetts and Senator Talmadge of Georgia.

You could have an ad hoc group that would do that function. Or, on the other hand, you could have senators who are no longer in the Senate, who have retired, or for some other reason are no longer members of the Senate.

Then, there are other suggestions about having hearing examiners or retired judges act in that capacity. There are some constitutional problems about that, really. The Constitution, in effect, says that each house of the Congress shall be the judge of its members. There's some question of whether you could delegate it to a nonmember. We are studying that right now.

PACE. So you are actively studying ways to change. . .

HEFLIN. Well, I don't know just to change. I'm not one that wants to change for change's sake. But if there is a reason, and in my judgment there is a reason to separate the grand jury function from the trial jury function of the ethics committee.

PACE. Will you be more comfortable in the grand jury role or the trial jury?

HEFLIN. I would think that the trial jury phase will not occur very frequently. I mean, if you've had only three in the last 10 years, you won't have it that often. So I think that function will be separated off from the ethics committee, and let it be done by another body.

PACE. Do you intend to seek out breaches of ethics or do you think it will be more a case of cases being brought to you?

HEFLIN. The way the law is written, the duty and function of the ethics committee is to investigate the complaints.

There is a distinction in the law between unsworn complaints and sworn complaints. If a complaint is under oath, then the ethics committee is required to go through a formal investigatory function. If a complaint comes in in an unsworn manner, then the duty of the ethics committee is to investigate it and to look into it, but it does not require the formality of the investigation that a sworn complaint does.

So that's the law. As I interpret the law, the law doesn't place upon the ethics committee the seeking out to find, but it is a body that hears complaints. The way the Congress and the people think, if there's something going on, you're going to hear about it, so I don't think that makes a lot of difference.

PACE. What made you decide to take the ethics committee chairmanship?

HEFLIN. I've been interested in ethics in government. Back in 1968, '69 and '70 I served as chairman of the Alabama Ethics Commission. This was an ethics committee appointed by Governor Brewer. This was the first one in the state.

We had a detailed study of ethics in government. I became interested in it. We had a report that was submitted to the Legisla-

ture and as a result of not only our activity, but activity of others, a state ethics law was adopted.

So I've had an interest in it, and it's one of the functions in which I would be, in effect, doing some interpretation of language, more like judging from an appellate judging viewpoint than the other duties that I have. So it has some attractions on that.

Of course, the other thing is, I suppose there is some honor to be a chairman of a committee, and as a freshman, being asked to do it . . . I don't know.

There is a limitation on the time you can serve. The statute says you can't serve longer than five years. I don't know whether I'll serve that long, but anyway at the present time I'm enjoying it.

PACE. You were offered a post on the ethics committee when you first came up here.

HEFLIN. Well, it wasn't when I first came here. It was at a stage after I'd been here awhile, just before the Talmadge trial began.

They wanted a judge, somebody with judicial experience, to preside over the Talmadge trial. Of course, there are only three members of the Senate that have former judicial experience—that's Senator Stennis of Mississippi, Senator Thurmond of South Carolina and myself. So I was asked at that time to be the chairman of it, of the ethics committee, and preside over the Talmadge trial.

I was at that stage still getting my staff organized, going through a learning process, and I did not feel that I ought to devote that much time—and it did take a lot of time—toward that one matter and neglect some other things that I thought were very important to me.

I told them that later on I would discuss it with them, and then they came back after the Talmadge trial was over and discussed it with me, and I agreed to serve as chairman.

Mr. HEFLIN. I have, of course, served on the Ethics Committee only a very short time. Most of the time that I have been on the Ethics Committee has been spent dealing with the matter of interpretive rules. Because a recess was imminent at the time of my appointment, a great demand was placed on my time as the chairman and on the time of the vice chairman, and on the members of the committee to give interpretive rulings pertaining to certain factual settings for Senators who would be traveling or undertaking other activities during the recess. Responding to these detailed questions took and continues to take, I might add, a great deal of time.

There is an old saying that one must learn to crawl before he learns to walk. Having just finished my first year in the Senate, I am still in the learning stage, a stage which probably could be better classified as a crawling stage. With regard to my appointment to the Ethics Committee, I am probably at a stage now where I have hardly learned how to crawl yet.

However, I have had some previous experience with regard to ethics in Government and ethical concept and philosophy in general. I served as chairman of the first Alabama Ethics Commission. In Alabama, our first ethics study commission made a 15-month study before making our conclusion and recommendation.

We divided our efforts into five categories and had a study group for each: Ethics in the legislative branch; ethics in the executive branch; ethics in the judicial branch; ethics in regulatory agencies; and ethics as it was applicable to lobbying. We had the assistance of the University of Alabama's Bureau of Public Administration. Each study group had the benefit of an experienced political scientist as a reporter and consultant. Each group did the necessary research and study and reported back to the overall ethics commission which reviewed, revised, gave further consideration and study to the work product of the subdivisions and then issued written reports concerning each area of inquiry.

As the result of this effort, as well as a general movement for ethics and accountability in government, the Alabama legislature adopted an ethics law shortly after the commission submitted its report. Of course, the legislature made many changes to our recommendations, but the basic framework of our study was followed.

Mr. President, I want it clearly understood that what I am about to say regarding my thoughts and observations about the Ethics Committee and its staff is not intended to be a criticism in any way of past committee members or the staff or the leadership of the committees. The Ethics Committee, during the past several years, has had tasks before it that were both serious and time consuming. As most of the Senators know, the Ethics Committee recently dealt with the Senator Brooke matter and the Senator TALMADGE matter. Extensive hearings were held on both of these matters and the committee really has not had much time for anything else except to issue hundreds of interpretive rulings. Their rulings are necessary in order to prevent any violation of the rules of ethics or the ethics-in-Government law or other laws or guidelines that are confronting Senators, but they are time consuming. So the committee really has not had much time to do anything else.

In the short period of time I have served on the committee I have made some observations. Many observations are not yet conclusive, but I do feel there are some faults in the present system. I think there are some areas that may be suffering from deferred maintenance, and others which may be structural defects. Thus, as I mentioned, what I say is not intended to be critical of past committee activity.

I am still studying and will continue to study the committee operation, but one defect that I think is present is the fact that the Ethics Committee, as organized, serves the function of a grand jury as well as a trial jury. No court of law would ever allow a person who serves on a grand jury to serve on a trial jury; but we have a situation where the Ethics Committee is, in effect, an investigator, a charger, a grand jury, and then it becomes a trial judge, and it makes disciplinary recommendations to the Senate as a whole. There have been several suggestions as to how we could separate the grand jury function from the trial jury function.

One suggestion is that we have ad hoc committees of Senators who would act as a trial jury, with the Ethics Committee serving as the investigator or the charger. Thus, the Ethics Committee would function as the grand jury and the special ad hoc committees hear the testimony, to be the trial jury, in effect.

Another suggestion, is that former Senators act as the trial jury; it has been suggested that hearing examiners be brought abroad to hear the case, and some suggestions that, perhaps retired judges might serve in that capacity.

There have been still other suggestions that the function of the grand jury be placed in the Rules Committee and that the Select Committee on Ethics, in effect, be the trial jury. This, of course, is the approach Senator WEICKER is advocating.

There may be some constitutional problems, in my judgment for outsiders, former Senators or hearing examiners, participating, since the Constitution says that each body is the judge of its own Members.

There may be problems with that. I have not reached any conclusion, but it is a matter that I think has to be studied.

While the fundamental structure of the process needs review, there are other significant problems which also need to be examined. One such problem is that of public disclosure and the form such disclosure should take.

It seems to me that there is a great need for simplification in the disclosure process, and the disclosure form. We are working on a form to be used this year. Hopefully, it will simplify, but still meet the current requirement for disclosure.

But the requirements themselves as well as the form will be a matter of ongoing study.

Another problem I see is the fact that so many different laws and rules impart on our ethics procedures, that some kind of consolidation seems to be in order.

In trying to answer almost any question which comes before the committee, I find there are many sources which we must examine to determine whether a proposed action is permitted.

In almost any given situation we have to look first at the Ethics in Government Act. We then have to look at the rules of the Senate as they apply to ethics; then there is the Foreign Gifts Act. Usually the act establishing Federal Election Commission and the rules used thereunder must be consulted, especially if the Senator is running for reelection, since there are requirements that fall under the category of ethics in regard to the conduct of campaigns.

In addtion to this, the Senate Rules Committee, in many ways, determining what is the official conduct of business, what is official and what would be outside the element of official business. There are other matters such as the expenditure of funds which involve ethical considerations that the Rules Committee has to deal with.

In addition to all of these authorities, the committee must also take cognizance

of the franking privilege laws, and the whole body of rules which have grown up around this statute.

All of these statutes and rules impact on the ethical conduct of Members of this body. The Ethics Committee is required to have an overview, an oversight, and to give interpretive rulings on proposed activity related to all of those sources of restraint on proposed activity.

It seems to me that there is certainly a need for a comprehensive manual. Our laws and rules, in my judgment, are too detailed and too complex, and too scattered.

I do not disagree with the idea Senator WEICKER has about a study. I do have a little problem about the completion time. I think we have a problem whenever we attempt to select a date. I think we ought to review a completion date with a number of criteria in mind.

At the present time, the workload and the present status of the committee would have to be considered. We have a new chairman and a new vice chairman who are still learning the job.

Only this week, on Monday, was one Member appointed to the Ethics Committee, and on Friday a week ago another. We have six members; thus one-third of the committee has only served for less than a week, and during that time they have not met.

We have two experienced members on the Ethics Committee, but one says he may have to resign in the future. I think perhaps that may be in the near future.

We have spent most of our time working on interpretive rulings, and I, frankly, have not become familiar with all of the rules, laws, and the procedures which are applicable in a given situation. One must first understand the existing system before one can begin to understand the need for change.

There are other problems that are peculiar to the Ethics Committee. One is that we have inherited staff. I think this is fine and the way it should be. But it does require that the chairman and the vice chairman, and other members of the committee, have to get to know and evaluate that staff. This is something, of course, that we are doing as we work with them and as we are moving forward.

We, of course, have talked to the former members of the Ethics Committee in regard to the staff and its competency and philosophy. I must admit we get varying reports in regard to that.

The point I make is that just getting to know the staff and becoming familiar with the capabilities and the limitation of the staff members is a time-consuming task and, in order to be fair to all parties concerned, I think it has to be a thorough undertaking.

Our evaluation of the staff also would affect our decision of whether additions or consultants to staff should be added for a study, or whether the present staff can carry out the study without any additional personnel. In my judgment, there is a need for internal improvements. and this will require time.

As I have mentioned before, the vast majority of work thus far has been with interpretive rulings. I think there are some inherent dangers in regard to the procedure we follow in regard to interpretive ruling. Many times interpretive rulings are brought before the committee without an adequate statement of the factual situation. There is no adversary process in regard to decisions on interpretive rulings. We do not have the benefit of briefs or arguments as does a court of law when dealing with interpretation of statutory language.

I think we need to establish in the Ethics Committee an adequate law library in which we have works and treatises on statutory construction. For example, I think, certainly, there is a need for a set of words and phrases. As most people who have had background in law find, this is a work that would be exceptionally helpful.

We recently learned that there is an organization with members from 41 States which have some kind of ethics commission or committee which is concerned with the problem encountered by such commission or committee.

I think this is an organization we want to become associated with. I understand the Ethics Committee has never attended any of their meetings. I think we want to get involved in that and find out what is involved in what States are doing along these lines.

A criterion for selecting a completion date, of course, involves the urgency of the undertaking. It involves the question, is time of the essence? It involves the issue of, is there resulting injury as a result of a later completion date, and of the time required for the comprehensiveness of the study.

There are new concepts now dealing with ethics in Government. There is now a great deal of literature, not only in law reviews, but in other governmental publications and legal publications dealing with this.

Of course, there is an issue of the availability of time of the leadership in undertaking studies. As a freshman, I have a great deal of competition for my time. I simply do not know when the completion date should be. At this stage, I am not in a position to rationally and intelligently follow a formula or a procedure to determine a completion date.

I think it could be done quickly, but not in depth. On the other hand, it would take a longer period of time for a more detailed study. There is always the possibility of having a specific time set, and then, of course, having to come back and ask for an extension of time. Frankly, that does not appeal to me. I would very much like to meet a deadline once it is established. It has always been my practice to try to have a reasonable, adequate time to undertake to do a study or to do a task and try to complete it within that time frame. But at this stage, it is a hard job for us to determine, because of many factors, as to how long this will take.

I simply say that this is a problem. I believe we should discuss the matter. I will be glad to discuss it with Senator WEICKER, and perhaps we can agree on a procedure in regard to the time that might be involved.

Mr. PELL. 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. WEICKER. 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. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator RIBICOFF in connection with this matter.

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

STATEMENT BY MR. RIBICOFF

My friend and colleague from Connecticut (Mr. WEICKER) has been sincere and steadfast in his efforts to revise the Senate Code of Official Conduct.

As submitted, S. Res. 109 would have amended the Senate Code of Official Conduct in several very fundamental ways—

First, by establishing a new financial disclosure rule requiring the publication of income tax returns and reinstituting GAO audits;

Second, by repealing the rules which restrict gifts, foreign travel, outside earned income and honoraria;

Third, by permitting Senators to engage in outside business or professional activities; and

Fourth, to expand the source of funds available to a Member to defray office expenses.

Finally, the resolution proposed to restructure the entire ethics jurisdiction of the Senate. The Committee on Rules would be responsible for the day-to-day administration of the Code of Official Conduct and disclosure provisicn of the rules. The Ethics Committee would have sole jurisdiction over investigating complaints of improper conduct which are referred to it from the Rules Committee.

S. Res. 109 was referred jointly to the Committee on Governmental Affairs and the Committee on Rules and Administration on August 3, 1979. In a report, filed on behalf of the two committees, it was recommended that Senate Resolution 109 should not pass. I concurred in that recommendation.

A principal reason for this negative report is the belief of the two committees that Senators should not be subject to a standard of disclosure which differs from what is required of other Federal officials. The history of Senate action on this very question is, I believe, quite clear. This issue was given great consideration by the Committee on Governmental Affairs during its deliberations on Watergate Reform legislation and the Ethics in Government Act. It was the conclusion of the Committee that all high-ranking government officers—Senators, Congressmen, Justices, and executive branch officials—should be treated equally and that disclosure requirements should be uniformly applied.

This position was first taken in 1976 when the Committee reported S. 495. The Senate reaffirmed the Committee's recommendation when it passed that bill in July 1976. Again, in the 95th Congress, the Committee reported and the Senate passed, S. 555—The Ethics in Government Act. This legislation was enacted in October 1978 and instituted a government-wide standard for financial disclosure. Just recently—on August 3, 1979—the Senate voted to amend the Code of Conduct to substitute the disclosure provisions of the Ethics Act for Rule 42. The House took similar action in January of last year.

Senate action with respect to the other proposed changes is also quite clear. During debate on S. Res. 110, the Senate fully considered the desirability of income tax disclosure and rejected it as an excessive and

unnecessary invasion of individual privacy. In separate actions the Senate has postponed the effective date of Rule 44 (outside earned income) and suspended the requirement for GAO audits of disclosure statements. On this last point, let me clarify that the Ethics in Government requires the Comptroller General to report to the Congress by November of this year on the feasibility and need for reinstituting such audits.

There was one aspect of S. Res. 109 which the Governmental Affairs and Rules Committees could not fully explore and study. The resolution, as introduced, proposed to restructure the ethics jurisdiction of the Senate. There have been questions raised concerning the administrative burden of the Code of Conduct, the necessity for so many interpretative rulings, and the procedures for handling investigations of allegations of misconduct by Members or employees of the Senate. These are important matters which affect our perception of the fairness and equity of the Code and they should be addressed.

I am pleased that the Senator has proposed to modify his resolution to instruct the Ethics Committee to study and report back to the Senate on the provisions for enforcement and implementation of the Code. I believe that this study should be undertaken by the Committee which is most directly affected by the Code of Conduct and is responsible for its administration. I believe that the substitute offered by the Senator from Connecticut (Mr. WEICKER) presents a constructive approach for the Senate in examining and overseeing ethics regulation.

Mr. WEICKER. Mr. President, I ask that I may amend my amendment as follows: On lines 10 and 11, in lieu of November 15, 1980, the dates would read "February 1, 1981."

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it will be so modified.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the resolution.

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

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I appreciate greatly the comments of the distinguished Senator from Alabama. I disagree with nothing he said. Indeed, I find myself in substantial agreement with almost all of what he put forth.

I think this matter will be resolved in a satisfactory way within that time frame. If, by virtue of world affairs or domestic affairs, something happens, I have no doubt that we will be able to find an accommodation to assure that the job is done properly, rather than just done for the purpose of meeting a deadline.

I do not have much further to say, except that I wish great success, in what is a substantial task, to the Senator and his very distinguished committee.

Mr. HEFLIN. Mr. President, I support Senator WEICKER in his amendment. I support the overall resolution.

We got together and discussed the Februarv 1, 1981, deadline for a completion date of the study. I think we can make it.

There may be situat'ons, however, as pointed out in my previous remarks, that could arise, requiring us to ask for an extension of time. I do not like to do that, and I hope we will not have to do it. But I do feel that the study should be comprehensive and should go into all concepts of ethical conduct of members in the legislative branch of Government, including studying what various States have done, and looking at the problem as a whole.

We will have to make decisions about personnel and staff in regard to carrying out the study, but those are matters that we will meet head-on as we approach them.

Overall, I believe it is time for a study. I commend the Senator from Connecticut for calling for such a study. It is in keeping with my desire and my announced public intentions.

I must state that I also appreciate the support, the encouragement, the advice, and the wisdom that the distinguished Senator from Rhode Island (Mr. PELL) has provided us in regard to this matter.

Mr. PELL. Mr. President, I am delighted that the Senator from Connecticut and the chairman and the ranking minority member of the Ethics Committee have come to an agreement as to when the report should be made.

We are lucky that the chairman of the Ethics Committee, Senator HEFLIN, is taking on this responsibility, with his experience and background in the judiciary and with his commonsense approach. I think the study will be of great value.

I am glad that Senator WEICKER and Senator HEFLIN agree that if, for reasons of necessity, there is difficulty in concluding the report by the stated time and an extension should be needed, there would be no difficulty in reaching an accommodation. I will do my best to insure that such is the case.

Accordingly, I am very glad to support both Senators with respect to the study resolution, and I am prepared to yield back the remainder of my time.

Mr. WEICKER. I thank the distinguished Senator from Rhode Island for his kind remarks.

● Mr. HATFIELD. Mr. President, I rise in support of the substitute amendment to Senate Resolution 109 offered by the distinguished Senator from Connecticut. The amendment would authorize and direct the Select Committee on Ethics to reexamine the Senate's ethics code, in light of the experience of the past 3 years.

The ethics code is ripe for such a review. In the past year alone, the Senate has taken two highly significant actions which bring the merits of this code into question. First, the Senate postponed the effective date of the outside earning limitations until 1983. Second, the Senate's unique financial disclosure requirements were replaced with the standards applicable throughout the Government. That these major elements of the code have been abrogated in just 3 years indicates that there may be fundamental problems with the code.

Let there be no misunderstanding—in calling for this study, we are not calling for a weakening of the code. The Senate must maintain a strong code of ethics which will assure the public of the integrity of its Members. I believe such a code will have to go beyond financial disclosure. There is more at stake in an individual Senator's conduct than merely whether he or she will be reelected. We have seen in recent years the standing of public officials plummet in the public's eyes. A very significant factor in the public's disenchantment is the action of individual public officials. The resignation of a President, the criminal convictions or indictments of Members of the House of Representatives, ethics investigations of Members of both bodies of the Congress all contribute to the general perception of public officials as primarily "looking out for No. 1."

Under these circumstances, the Senate must ma'ntain high standards of conduct, and rigidly enforce them. But there is a balance to be achieved. The code need not finetune a Member's activities, or create a lengthy body of regulation which a Member or staff person can avoid mastering only at his or her peril. My experience on the Ethics Committee has been that its members are forced to spend too much time deciding questions of miniscule proportions.

And so, Mr. President, I bel'eve an Ethics Committee study of the questions raised today could be of major benefit to the Senate, and I urge adoption of th's amendment.●

Mr. WEICKER. Mr. President, it is my understanding that I should ask for the yeas and nays on the amendment rather than on the resolution, and I do so at this time.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair understands that the yeas and nays have been ordered on both the amendment and the resolution.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the yeas and nays on the resolution be vitiated.

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

Mr. WEICKER. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my t'me.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified. On th's 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 Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator

from Georgia (Mr. TALMADGE) are necessarily absent.

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

Mr. TOWER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. MOYNIHAN). Is there any Senator in the Chamber who has not voted?

The result was announced—yeas 78, nays 0, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—78

Baucus	Hatch	Nunn
Bayh	Hatfield	Packwood
Bellmon	Hayakawa	Pell
Bentsen	Heflin	Percy
Boren	Heinz	Pressler
Boschwitz	Helms	Proxmire
Bradley	Hollings	Randolph
Burdick	Huddleston	Riegle
Byrd, Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Jepsen	Simpson
Church	Kassebaum	Stafford
Cochran	Lavalt	Stennis
Cohen	Leahy	Stevenson
Cranston	Levin	Stewart
Culver	Long	Stone
Danforth	Lugar	Thurmond
Dole	McClure	Tower
Domenici	McGovern	Tsongas
Durenberger	Magnuson	Warner
Durkin	Mathias	Weicker
Eagleton	Matsunaga	Williams
Exon	Melcher	Zorinsky
Ford	Moynihan	
	Muskie	

NOT VOTING—22

Armstrong	Gravel	Ribicoff
Baker	Hart	Sasser
Biden	Johnston	Stevens
Bumpers	Kennedy	Talmadge
DeConcini	Metzenbaum	Wallop
Garn	Morgan	Young
Glenn	Nelson	
Goldwater	Pryor	

So Mr. WEICKER's amendment (UP No. 952) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. All time has been yielded back——

Mr. WEICKER. Mr. President, a parliamentary inquiry. My motion to reconsider was directed toward the amendment just agreed to by the Senate. It is my intention to also move for adoption both the preamble and amending the title. My parliamentary inquiry: is a motion to reconsider at this time proper or should it wait until after the other two matters are disposed of?

The PRESIDING OFFICER. The Chair advises the Senator he may do it either way.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair will inquire did the Senator from Connecticut ask for reconsideration of the vote on the amendment?

Mr. WEICKER. That is correct.

The PRESIDING OFFICER. The Chair must then correct himself that it can only be done before agreeing to the resolution, and now is the proper time.

Mr. WEICKER. Mr. President, I send to the desk a preamble and ask for its adoption.

The PRESIDING OFFICER. The Chair must inform the Senator that the question now before the Senate is on agreeing to the resolution, as amended.

The resolution (S. Res. 109), as amended, was agreed to.

UP AMENDMENT NO. 953

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 953 in the form of a preamble.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Mr. President, I respectfully regret that I must object, because the manager on our side has left the floor. I am not sure he was aware there was an amendment.

I wonder if the Senator from Connecticut (Mr. WEICKER) would let us put in a quorum and get them back here so they can hear what the amendment is.

Mr. WEICKER. Mr. President, in response to the distinguished majority leader, it has been cleared with the manager.

Mr. ROBERT C. BYRD. It has been?

Mr. WEICKER. Yes.

Mr. ROBERT C. BYRD. The amendment to the preamble has been cleared?

Mr. WEICKER. The amendment to the preamble and the amendment to the title.

Mr. ROBERT C. BYRD. Both?

Mr. WEICKER. Yes.

Mr. ROBERT C. BYRD. Then I have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment adding a preamble.

Mr. ROBERT C. BYRD. Mr. President I think we ought to have an understanding of what that is. If the distinguished Senator says it has been cleared with the others, I am sure that is correct. But the rest of us would like to know what it is.

Would the Senator mind taking a minute to explain it?

Mr. WEICKER. Mr. President, the best way to explain it is to read it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Insert the following preamble:

Whereas, Senate Resolution 110, 95th Congress, agreed to April 1, 1977, amended the Standing Rules of the Senate to establish a Senate Code of Official Conduct;

Whereas, Senate Resolution 110, 95th Congress, also amended Senate Resolution 338, 88th Congress, which established the Select Committee on Standards and Conduct (the name of which was changed to the Select Committee on Ethics by Senate Resolution 4, 95th Congress), to provide procedures for enforcing and implementing the Senate Code of Official Conduct and investigating allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, the Senate has found it necessary to take action on an ad hoc basis to amend the Senate Code of Official Conduct, including the adoption of Senate Resolution 265, 95th Congress, on September 29, 1977, which postponed the effective date of rule XLII relating to financial disclosure; Senate Resolution 93, 96th Congress, on March 8, 1979, which postponed the effective date of XLIV relating to the limitation on outside earned income until January 1, 1983; and Senate Resolution 220, 96th Congress, on August 3, 1979, which substituted the disclosure provisions of title I of the Ethics in Government Act for the provisions of rule XLII;

Whereas, because of the complexity of the Senate Code of Official Conduct the Select Committee on Ethics has found it necessary to issue more than 200 rulings interpreting the Code;

Whereas, it would be useful to review the appropriate procedures for investigations of allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, issues have been raised concerning the effective and efficient administration of the Senate Code of Official Conduct; and

Whereas, the Senate must assure that ethics regulation is credible, meaningful, and understandable for both the Members of the Senate and the public: Now, therefore, be it

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. WEICKER).

The amendment (UP. No. 953) was agreed to.

The resolution (S. Res. 109), as amended, with its preamble, is as follows:

S. RES. 109

Whereas, Senate Resolution 110, 95th Congress, agreed to April 1, 1977, amended the Standing Rules of the Senate to establish a Senate Code of Official Conduct;

Whereas, Senate Resolution 110, 95th Congress, also amended Senate Resolution 338, 88th Congress, which established the Select Committee on Standards and Conduct (the name of which was changed to the Select Committee on Ethics by Senate Resolution 4, 95th Congress), to provide procedures for enforcing and implementing the Senate Code of Official Conduct and investigating allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, the Senate has found it necessary to take action on an ad hoc basis to amend the Senate Code of Official Conduct, including the adoption of Senate Resolution 265, 95th Congress, on September 29, 1977, which postponed the effective date of rule XLII relating to financial disclosure; Senate Resolution 93, 96th Congress, on March 8, 1979, which postponed the effective date of rule XLIV relating to the limitation on outside earned income until January 1, 1983; and Senate Resolution 220, 96th Congress, on August 3, 1979, which substituted the disclosure provisions of title I of the Ethics in Government Act for the provisions of rule XLII;

Whereas, because of the complexity of the Senate Code of Official Conduct the Select Committee on Ethics has found it necessary to issue more than 200 rulings interpreting the Code;

Whereas, it would be useful to review the appropriate procedures for investigations of allegations of improper conduct by Sen-

ators and officers and employees of the Senate;

Whereas, issues have been raised concerning the effective and efficient administration of the Senate Code of Official Conduct; and

Whereas, the Senate must assure that ethics regulation is credible, meaningful, and understandable for both the Members of the Senate and the public: Now, therefore, be it

Resolved, That the Select Committee on Ethics is authorized and directed to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators and officers and employees of the Senate. The Select Committee shall report the results of such comprehensive review to the Senate at the earliest practicable date, but not later than February 1, 1981, together with its recommendations for changes in the Code and such provisions.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read:

Resolution to direct the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct and provisions for its enforcement and implementation.

The amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 5168, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

EXTENSION OF CERTAIN EXPIRED PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

SECTION 1. (a) Public Law 93-397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1980".

(b) Subsections (a) and (b) of section 2 of Public Law 95-377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c)(1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B)(ii);

(B) by striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof ", or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended—

(A) by striking out "or" at the end of item (i);

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(d) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that during the period beginning on September 15, 1978, and ending on September 30, 1980, such a board may consist of nine officers serving in the grade of major general or above.".

(e) Sections 5787c(b)(2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

AMENDMENTS TO MAKE CERTAIN RETIREMENT PROVISIONS RELATING TO REGULAR ENLISTED MEMBERS OF THE ARMY AND AIR FORCE APPLICABLE TO RESERVE ENLISTED MEMBERS

SEC. 2. (a)(1) Section 3914 of title 10, United States Code, relating to the retirement of regular enlisted members, is amended to read as follows:

"§ 3914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.".

(2) Section 3925 of such title, relating to the computation of years of service of enlisted members of the Army in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "regular" in the catchline.

(3) The table of sections at the beginning of chapter 367 of such title is amended by striking out "regular" in the items relating to sections 3914 and 3925.

(b)(1) Section 8914 of such title is amended to read as follows:

"§ 8914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserves, equals 30 years.".

(2) Section 8925 of such title, relating to the computation of years of service of enlisted members of the Air Force in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "regular" in the catchline.

(3) The table of sections at the beginning of chapter 867 of such title is amended by striking out "regular" in the items relating to sections 8914 and 8925.

(c) The amendments made by this section shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act.

ESTABLISHMENT OF NAVY CHAPLAIN CORPS AS A STAFF CORPS OF THE NAVY

SEC. 3. (a) Chapter 513 of title 10, United States Code, relating to Bureaus of the Navy, is amended by striking out section 5142 and inserting in lieu thereof the following:

"§ 5142. Chaplain Corps and Chief of Chaplains

"(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

"(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, and with the advice of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty, who are not on the retired list, and who have served on active duty in the Chaplain Corps for at least eight years.

"(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

"(d) While serving as the Chief of Chaplains an officer is entitled to the rank and grade of rear admiral of the upper half unless entitled to a higher grade under another provision of law.

"(e)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

"(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

"(f) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

"§ 512a. Deputy Chief of Chaplains

"(a) The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty, who is not on the retired list, and who has

served on active duty in the Chaplain Corps for at least eight years.

"(b) While serving as the Deputy Chief of Chaplains, an officer is entitled to the rank and grade of rear admiral of the lower half unless entitled to a higher grade under another provision of law.

"(c) An officer detailed as the Deputy Chief of Chaplains who serves in such position for at least two and one-half years and is retired for any reason while serving in such position, or who is retired for any reason after having completed such period of service in such position, may, in the discretion of the President, be retired with the rank and grade of rear admiral of the lower half if at the time of his retirement he is serving in a lower grade, unless he is entitled to a higher grade under some other provision of law. If he is retired as a rear admiral, he is entitled to retired pay in the lower half of that grade, unless entitled to higher pay under another provision of law.".

(b) The table of sections at the beginning of chapter 513 of such title is amended by striking out the item relating to section 5142 and inserting in lieu thereof the following:

"5142. Chaplain Corps and Chief of Chaplains.

"5142. Deputy Chief of Chaplains.".

(c) Section 202 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Unless appointed to a higher grade under another provision of law, an officer of the Navy detailed and serving as Deputy Chief of Chaplains is entitled to the basic pay of a rear admiral of the lower half.".

EXPANSION OF AUTHORITY TO MAKE ADVANCE PAYMENTS

SEC. 4. Subsection (a) of section 1006 of title 37, United States Code, relating to advance payments, is amended to read as follows:

"(a) Under regulations prescribed by the Secretary concerned, a member of an armed force may be paid in advance—

"(1) not more than three months' basic pay of such member upon such members' change of permanent station; or

"(2) the amount of an allotment made from such member's basic pay to a dependent if the allotment is made to the dependent no more than sixty days before the scheduled date of deployment of the unit or command to which the member is assigned.".

AUTHORITY TO RETIRE IN A HIGHER GRADE RESERVE OFFICERS WHO HAVE SERVED IN SPECIAL POSITIONS

SEC. 5. (a)(1) Section 3962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) Section 3962(b) of such title is amended by striking out "Regular".

(3) The catchline of section 3962 of such title is amended to read as follows:

"§ 3962. Higher grade for service in special positions".

(4) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3962 and inserting in lieu thereof the following:

"3962. Higher grade for service in special positions.".

(b) Section 8962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) The catchline of section 8962 of such title is amended to read as follows:

"§ 8962. Higher grade for service in special positions".

(4) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8962 and inserting in lieu thereof the following:

"8962. Higher grade for service in special positions.".

(c)(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the armed forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of enactment of this Act.

(2) Subject to the approval of the President, the Secretary of the military department concerned shall pay (in a lump sum) to any person appointed to a higher grade under authority of paragraph (1) an amount equal to the difference between (A) the amount such person was entitled to receive in retired pay for the period beginning on the date of his retirement and ending on the day before the date of the appointment of such person to a higher grade under such paragraph, and (B) the amount such person would have been entitled to receive in retired pay had he been retired in such higher grade. Any lump sum payment made under this paragraph, and (B) the amount such person available to the Secretary of the military department concerned for the payment of retired pay.

The PRESIDING OFFICER. The Chair wishes to state that the time for the debate on this bill is limited. The Chair would ask who yields time?

Mr. ROBERT C. BYRD. Mr. President, this is the additional time, I believe, that was provided for the closed session, if such a closed session is requested; am I correct?

The PRESIDING OFFICER. The Senator is correct: up to 4 hours.

Mr. ROBERT C. BYRD. Mr. President, I understand that a Senator will request a closed session shortly.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, before any request for a closed session occurs, I ask unanimous consent that Mr. PROXMIRE may proceed, as in morning business, for not to exceed 2 minutes, and that Mr. HELMS may proceed not to exceed 1 minute.

GENOCIDE CONVENTION DOES NOT AFFECT SOVEREIGN U.S. CONTROL OF EXTRADITION POLICY

Mr. PROXMIRE. Mr. President, a common objection to the Genocide Convention is that it might allow foreign countries to extradite and try U.S. citizens for committing genocide. It is important to dismiss this unfounded criticism. The Genocide Convention puts the United States under no obligations to extradite any of its nationals.

Articles VI and VII of the convention are concerned with possible extradition of persons charged with genocide. Article VI stipulates that persons accused of genocide shall be tried by the state in which the act was allegedly committed, or by an international tribunal. Does this mean, if the United States were to ratify the Genocide Convention, that an American charged with genocide elsewhere could be extradited and tried somewhere where he would not receive the due process afforded defendants in the United States? No it does not.

The United Nations report accompanying the Genocide Convention makes very clear that "nothing in the article (VI) should affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state." The Senate Foreign Relations Committee, in its favorable report of the Genocide Convention, also reiterated this understanding. The convention therefore, clearly leaves the United States the first right to try its nationals. And once someone has been tried once, prohibitions against double jeopardy preclude his being tried elsewhere as well.

Article VII of the Genocide Convention provides first that genocide shall not be considered a political crime for the purposes of extradition. Second, it says the parties to the convention pledge themselves in cases of genocide "to grant extradition in accordance with their laws and treaties in force." Far from compromising U.S. sovereignty, this provision reaffirms that the Genocide Convention does not affect extradition policy. The convention does not erode the Constitution of the United States or the supremacy of U.S. law in this country. Rather, the convention explicitly reserves extradition policy changes to other laws and treaties.

United States law provides for extradition only when there is an extradition treaty in force. Since there are no U.S. laws or extradition treaties relating to genocide, the opponents of the convention have no case. The Genocide Convention does not seek to quietly incorporate into U.S. law any nefarious provisions. The convention does not seek to subordinate American justice to any other standard. It simply seeks to raise the outrage of genocide to the level of an international crime. I urge my colleagues in the Senate to ratify the Genocide Convention.

VOLUNTARY STANDARDS AND CERTIFICATION

Mr. HELMS. Mr. President, later this month the Senate will consider S. 1991, the Federal Trade Commission Improvements Act of 1979. As Senators are aware, the Federal Trade Commission has come under increasing scrutiny in recent years. In fact, the FTC has been funded under continuing resolutions the last 3 years because the House and Senate have been unable to agree on an authorization bill containing measures to reform and guide the activities of the agency.

I am particularly interested in section 8 of S. 1991, which would amend the Federal Trade Commission Act to prohibit the FTC from engaging in rulemaking proceedings regarding voluntary standards and certification activities. It had been my intent to offer similar language as a floor amendment to S. 1020, the original Federal Trade Commission author-

ization bill. But during Commerce Committee markup of S. 1991, Senator MAGNUSON offered the language now contained in section 8, and his language was unanimously accepted by the other members of the Commerce Committee.

Until recently, few people outside the voluntary standards and certification community knew much about what voluntary standards are, who develops them, or why. And despite FTC attempts to regulate the voluntary standards and certification process, there are still many who have not come to understand fully how our voluntary standards and certification process works, or the extent to which this process affects our economy.

The February issue of Harpers magazine contains an article by Samuel C. Florman entitled "Standards of Value." It is the best explanation of our voluntary standards and certification process that I have seen.

In order that my colleagues might have this information available to them, I ask unanimous consent that Mr. Florman's article be printed at this point in the RECORD.

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

STANDARDS OF VALUE

(By Samuel C. Florman)

SCREWS AND NUTS

In Washington hearing rooms, as I have seen them on television, dramatic events unfold before tense audiences. But one morning in late September, when I entered the third-floor hearing room in the Federal Trade Commission Building, the participants in the proceedings then under way seemed overcome by torpor, and no audience at all was there to witness the end of long hearings on a proposed trade-regulation rule covering "product standards and certification." For twelve weeks, starting in San Francisco and concluding in Washington, a small group of specialists had been arguing about certain arcana of our industrial society—the procedures by which volunteer experts establish thousands of technical standards for materials and manufactured products.

During much of the morning only seven persons, besides me, were in the room: the FTC-appointed presiding officer, a witness from the Institute of Electrical and Electronics Engineers, his lawyer, a stenographer, and, to examine the witness, one representative each from the FTC, the National Consumers League, and the American National Standards Institute (ANSI), the umbrella organization for most of the standards-setters in the nation.

Despite the hush, and the evident boredom, I felt that I was present at an occasion of some importance. I sensed that I was witnessing a crucial defeat for the forces of government regulation in the United States. Like a stranger coming across an advance platoon of Napoleon's army before the gates of Moscow, I thought, "The cause is lost; they have chosen the wrong enemy and come too far, recklessly; the great retreat starts here."

I first learned about the proposed FTC rule in the pages of engineering journals. "voluntary standard under attack," read a headline in the December, 1978, issue of the ASCE News, a publication of the American Society of Civil Engineers. "Federal Trade Commission Reaches for Regulatory Input to Every Segment of Standards-Setting Operation," announced a feature in Professional Engineer, "Another Incursion Into Private Enterprise," sputtered the editors of Consulting Engineer.

I found it hard to believe what I was reading. Who would dare to attack the voluntary standards-setters of America? Who could be foolish enough to challenge the 300,000 individuals who volunteer some of their time, under the auspices of trade, technical, and professional organizations, to writing the industrial standards of the nation? One might sooner launch an assault on the League of Women Voters. I could only conclude that someone at the FTC had gone mad.

My sense of alarm did not arise out of any personal animus toward government regulation. On the contrary, I am convinced that a complex technological society requires an abundance of regulation, and that the current big-business campaign to discredit the regulatory function is a danger to the commonweal. I become disturbed when I see an illustration in Exxon USA portraying the Statue of Liberty enveloped in red tape, or advertisements from the Amway Corporation showing an ugly "Federal Nanny" hovering overhead or a "regulatory" branch choking the other branches of the tree of liberty. If regulations are often imperfect, or even absurd, that is because regulators are as fallible as the bankers and department-store executives who regularly foul up our personal accounts. Regulations need to be rationalized, of course, but not disparaged and weakened to the point that the innate avarice of businessmen is given free play. Bureaucracy is the price we pay for technological complexity and creative greed. The Statue of Liberty is not tied up in red tape, dear Exxon—she is held together by red tape.

It was out of concern for the beleaguered cause of regulation that I deplored the move against the standards-setters. I even fancied that the public-relations department of the U.S. Chamber of Commerce, had planted a double agent within the FTC whose mission was to launch an assault on a placid yet powerful community whose history is one of the triumphs of American democracy.

ROUND PEGS, ROUND HOLES

Although standards are as old as civilization (in 1266, for example, England's Henry III decreed that a penny was to weigh the equivalent of 32 grains of wheat "taken from the middle of the ear"), the modern age of standards began in the nineteenth century with the development of mass production. If manufactured parts were to fit together and be interchangeable, and if parts made in one factory were to be assembled in another, then there had to be agreement on dimensions and quality of materials, that is, there had to be standards.

Such simple and ubiquitous items as the nut and bolt were being made haphazardly in thousands of sizes, shapes, and screw-thread configurations, a situation that an emerging industrial society could not tolerate. Wherever men of science and industry gathered, the need for standardization was discussed. At a meeting of the Franklin Institute in Philadelphia in 1864, a Mr. William Sellers proposed a system for standardizing screw threads that within a few years gained wide acceptance.

The American Society of Civil Engineers established a committee to develop a standard steel rail; the American Society of Mechanical Engineers set to work on a code for steam boilers. In 1898, a newly formed nonprofit organization called the American Society for Testing and Materials started to codify standard sizes, strengths, and other characteristics for the burgeoning steel industry. Intercompany standards associations were sponsored by several industries, notably the railroads, which required prototypical equipment such as safety couplings and air brakes, to say nothing of a standard track gauge to replace the thirty-three different dimensions that were in use at one time.

As the need for standards outstripped the facilities to provide them, the National Academy of Sciences pressed Congress to establish a national standardizing laboratory. In 1901 the National Bureau of Standards was founded, modeled after Germany's Imperial Physical-Technical Institute (organized in 1887) and England's National Physical Laboratory (established in 1900).

In addition to taking over and expanding the Treasury Department's Office of Weights and Measures, the NBS was given the responsibility of making tests to guide the purchasers for federal departments, and thus became a technical resource for both industry and government, researching, testing, and setting standards for myriad materials and products—cement, light bulbs, paper, twine, resins, varnishes, and so forth.

By 1911 the bureau was conducting some 80,000 tests annually, and sending inspectors into every state to examine the scales of shopkeepers (most of whom were found to be shortchanging their customers). However, industry did not want all standards to become the province of a federal agency, and even NBS officials agreed that such an assignment would swamp them in petty details and subject them to unwanted political pressures. So the idea of making all standards a responsibility of the federal government, although advocated by some, was not implemented.

As dozens of corporations, trade associations, and professional societies increased their standardizing activities, overlapping and conflict inevitably occurred. Thus, in 1916, the professional societies of the civil, electrical, mechanical, and mining engineers, along with the American Society for Testing and Materials, met to discuss the coordination of standards on a national level.

After two years of conferences, these five societies established the American Engineering Standards Committee. The purpose of this organization was not to create standards but to review and coordinate those being developed elsewhere. The departments of Commerce, War, and the Navy accepted invitations to become founding members. Soon other government agencies, and then many trade associations, joined, and in 1928 the committee reorganized and changed its name to the American Standards Association.

(In 1948, when the association incorporated under the laws of New York State, federal agencies withdrew from formal membership, although their personnel remained active on technical committees. The present name, the American National Standards Institute, dates from 1969.)

Although the standards movement was occasioned by mass production, it made its way into many areas of American life. Insurance companies, concerned about fire losses and electric shock hazards, founded Underwriters Laboratories in 1894 and, two years later, the National Fire Protection Association.

A growing sensitivity to the rights of workers was expressed in a drive for industrial-safety codes, launched in 1919 at a meeting that standards experts had with representatives of labor, industry, and government. Building codes were developed, and standards adopted for pharmaceuticals and agricultural products.

The consumer movement was created in the late 1920s not by activist lawyers but by standards professionals. During Herbert Hoover's term as Secretary of Commerce (1921–28) a "Crusade for Standardization" became very popular. The number of mattress sizes was reduced from seventy-eight to four, varieties of milk bottles from forty-nine to nine. Satirists predicted that eventually standardization would reach ladies' hats.

Today there are more than 400 private organizations—trade, technical, professional, consumer, and labor—that have written or sponsored the approximately 20,000 current commercial standards. Most of the larger of these organizations are members of ANSI,

which defines itself as "the coordinating organization for America's federated national standards system."

By far the most prolific member of this community is the eighty-one-year-old American Society for Testing and Materials. Almost 30,000 individuals serve without pay on the ASTM's 135 standards committees.

The ASTM standards are usually developed at the request of an industrial trade association or a government agency, and they come in many varieties: a specification for stainless steel bar and wire for surgical implants; a recommended practice for rating water-emulsion floor polishes; a method of making and curing concrete test specimens in the field; a classification system for carbon blocks used in rubber products; a method of testing tires for wet traction in straight-ahead braking, using conventional highway vehicles.

To assure committee balance, the ASTM requires that neither the chairman nor more than half the members may be "producers." Draft documents prepared by task groups are reviewed by a mail-balloting procedure and, finally, by the entire ASTM membership. At each point along the way, negative ballots accompanied by written comments must be considered; dissatisfied voters can appeal to the board of directors committee that grants final approval. The ASTM standard is usually submitted to ANSI for endorsement as an American National Standard, and another routine begins, one that in recent years has given particular attention to the interests of small business and consumers. Many published standards find their way into government specifications.

Other leading developers of standards in the ANSI system are the Society of Automotive Engineers, the American Society of Mechanical Engineers, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the American Petroleum Institute, the Electronic Industries Association, and the National Fire Protection Association. Although not all of these organizations follow the full-consensus procedures of the ASTM, nor seek the participation of nontechnical people, their members all do view themselves as conscientious professionsals.

Anyone who reviews the history of voluntary standardization in the United States cannot help being impressed by the benefits that arise from the activities of this unique social institution. And anyone who reads in the literature of the standards-setters themselves cannot help noting how proud they are of what they do. This is the community that the FTC staff now proposes to subject to stringent, wide-ranging, and unprecedented regulatory control.

CONSPIRACY THEORIES

During most of the morning session I attended, the witness was Ivan G. Easton, the consulting director of standards for the Institute of Electrical and Electronics Engineers, whose calm monotone did not conceal his annoyance. "We are dealing with high technology," he said, speaking of the IEEE's standards-making activities. There is no need for a new FTC rule, he argued, one that would only open the door to trivial challenge and harassment from people whose main interests lie outside the standards field. Instead of being pestered by lay bureaucrats, Mr. Easton implied, he and his colleagues should be thanked and encouraged to continue their constructive work.

The young FTC lawyer who was doing the questioning, however, saw Mr. Easton in a different light. "Aren't the people on your committees sponsored by their employers?" he asked. "And is this totally altruistic?" The implication that the IEEE's standards committees are controlled by the large corporations is wildly ironic, particularly in light of the fact that the 160,000-member organization has long been considered the most radical of the engineering societies, implacably opposed to domination by business interests. It went so far as to resign in protest from the Engineers Joint Council when that organization in 1967 decided to accept corporate members.

After the lunchtime break, in the hope of discovering the rationale for what increasingly appeared to me to be a lunatic proceeding, I sought out the responsible members of the FTC staff, and was directed to the office of Robert J. Schroeder, project manager. I yield to no one in deploring prejudice against the young, but I found it unsettling to learn that Mr. Schroeder, five years out of the University of Michigan Law School, and four other young men of approximately the same experience constitute the entire legal staff of the FTC's Bureau of Consumer Protection, the body that now proposes to reform one of the nation's venerable technical institutions.

It all began in 1974, Mr. Schroeder explained, with the case involving foamed-plastics insulation. Manufacturers had been marketing plastic insulation as "nonburning" or "self-extinguishing," using as justification an ASTM test that exposed a small piece of plastic to an open flame. However, when buildings burned, plastic insulation burned along with them, giving off a poisonous smoke. After a number of deaths were attributed to the flammability of foamed plastics, the FTC issued complaints against twenty-five manufacturers and their trade association, and named the ASTM as "the means and instrumentality" involved. Under a consent order, the manufacturers and their association agreed to stop making the unwarranted claims, to notify past purchasers of the danger, and to conduct a $5 million research program. The ASTM, maintaining that its test results had been misused by others, did not participate in the consent order, and when the FTC did not persist, declared itself vindicated. However, the FTC asserted that the plastics industry had "captured" the ASTM committee, and used it to issue of self-serving standard. It is because of this, Mr. Schroeder said, that the FTC commissioners recommended a general investigation of the standards field.

Four years of study convinced the FTC staff that a rule-making procedure was justified. Standards are called "voluntary." Mr. Schroeder explained but once they are adopted for use they are likely to become mandatory, and are often given the force of law. Therein lies a potential for abuse. This is recognized by the standards-setting organizations, which strive to avoid it by balancing their committees and establishing other democratic procedures. "But we have seen injury to consumers and to competitors," Mr. Schroeder insisted. "It's okay to say that the system works, but just read some of the instances that we have uncovered."

On my return home I did read through the FTC staff's 572-page report, and found about thirty instances of purported abuse of the standards process. There were several examples of what the report calls "buyer misreliance," of which the most prominent was the flammable-plastics case. A few of the others:

Aluminum electrical wire, after being approved by the Underwriters Laboratories in the 1960s, was implicated as a fire hazard and found to require special connecting devices. The UL, it is claimed, was slow to modify its standards and approval practices.

The American Plywood Association's "exterior grade" plywood has been found susceptible to damage by birds and insects.

Lighting-level standards developed by the Illuminating Engineering Society were steadily increased over the years. With the coming of the energy crisis, they were deemed to be wastefully high and were belatedly decreased. (This has been a special grievance of Ralph Nader.)

An ASTM standard for brick has been criticized for failing to state a minimum initial rate of absorption (of water from fresh mortar) that might affect the ultimate strength of a brick wall.

More numerous than "buyer misreliance" complaints were instances of purported "product exclusion." For example:

Plastic pipe was kept out of plumbing codes long after it was found suitable for certain uses. Presumably this happened because of pressure from plumbers' organizations, which preferred the more labor-intensive cast-iron pipe.

It took ANSI six years to develop a standard that permitted toughened glass as an alternative to porcelain for use in high-voltage electrical insulators.

A manufacturer of loose-fill powder insulation for underground pipe complained that his material was unfairly excluded from a standard developed by the Building Research Advisory Board of the National Academy of Sciences.

When the Railroad Uniform Freight Classification Committee approved the use of foamed-plastic packaging, the manufacturers of traditional cellulose packaging protested that their material outperformed the new product.

Other complaints were filed by manufacturers of boiler low-water cutoff devices, relief valves for hot-water heaters, screw-thread gauges, safety spectacles, inexpensive sprinkler systems (not approved by the National Fire Protection Agency), butt-welded intermediate metallic conduit (banned by Underwriters Laboratories), thin ceramic tile, water system backflow prevention devices, automatic vent dampers for gas furnaces, burglar alarms, bathtubs, and wine bottles.

In this catchall of complaints, it is difficult to determine which values the FTC staff means to espouse. It opposes hasty approval of new materials, and also too much deliberation or foot-dragging. It deplores economy at the expense of safety, and safety at the expense of economy. It condemns practical compromise (noting with disapproval that "decisions are susceptible to being based more on political give-and-take among various factions than on sound technical/evidentiary grounds"). It also condemns the "mistaken assumption" that there are any "unbiased experts."

It is, of course, against errors and in favor of perfection. In reading the report I could only wonder at the complexity of the issues with which the standards-setters contend, and marvel at the way in which so many interests seem to be accommodated. The processing of more than 20,000 standards has resulted in fewer than 100 dissatisfied parties (including those who were heard during the course of the hearings), and many of these are soreheads who in no way discredit the people they criticize. What other institution, I wondered, public or private, has done as well?

The report admits that there are means of recourse for those who feel aggrieved by the standards system—first making use of ANSI procedures, then appealing to the media or Congressional committees, and finally filing private antitrust and products-liability actions. (Only thirty formal complaints have been filed with ANSI in the past ten years, and all of these have been resolved without litigation.)

The report concedes that in the past the FTC has dealt with standards problems by issuing industry guides and advisory opinions (in 1970, in response to a request from ANSI itself). It admits that the standards organizations have taken steps to update and improve their procedures. One looks through the report in vain for a clue to how society might benefit from the mind-numbing regulatory document that has been produced.

The Proposed Trade Regulation Rule for Standards and Certification covers sixteen pages of tightly packed type. ("This isn't all

bad," an ANSI official confided to me. "The standards organizations' lawyers love it.") The rule requires that "notice" be given to the public at three different stages of a standard's development; it requires that all persons (including environmental groups and energy-conservation groups) have equal opportunity to participate in all phases of standards proceedings; it contains a provision for "duty to act" in response to any legitimate challenge, and a definition of "appropriate action" (withdraw the standard, revise, or cease to distribute).

There are sections on "required disclosures," and "record-keeping and access," followed by a section on "appeals" (each standards-setter would have to establish an independent appeal board). Finally, there are sections dealing with the special responsibilities of certifiers and marketers (the information required to be included on labels would sometimes make the label larger than the product).

While ANSI does not quarrel with the rule's main objective—a fair representation of all interests in the standards process—it contends that the new regulations would mean substantial added administrative cost for the larger standards organizations, and would probably drive smaller standards-setters out of the business altogether. Obstructionists would have a field day, and the existing cadre of talented volunteers would become dispirited. And to what end? "Opponents of the FTC rule," says ANSI's official statement, "are being forced to defend a fantastically productive and effective standards system, which is the envy of the world."

Moreover, ANSI's lawyers maintain that the proposed rule imposes "prior restraint" on ANSI's right to public standards, and so constitutes a violation of First Amendment rights. They claim further that the FTC does not have authority to implement the rule, since ANSI, as a nonprofit corporation, is not subject to the FTC's jurisdiction.

Finally, the standards organizations point out that existing laws are adequate to remedy flaws in the system. The FTC is already empowered to prevent "unfair methods of competition . . . and unfair or deceptive acts or practices." The Sherman Act is enforceable by the Justice Department, the Consumer Product Safety Act by the Consumer Product Safety Commission.

The FTC lawyers say that they are merely trying to clarify laws that already exist, to better define what is "unfair" and what is not. ANSI's reply is that if the law is to be modified, then it is up to Congress to do it, and that the Senate Antitrust and Monopoly Subcommittee, after holding hearings in 1975, 1976, and 1977 on purported standards abuses, decided that no new legislation was warranted.

A CUT FOR NADER'S LIEUTENANTS

The hearings ended the day after my visit. Ralph Nader, who had been scheduled to testify, canceled his appearance, a good indication that the proposed rule is considered by its advocates to be a lost cause. ("We knew that he wouldn't show," chuckled ANSI's counsel, William Rockwell.) I have not encountered a single informed participant on either side who predicts that the rule will succeed. There is a move in the Senate to cut off the funds for this rule-making effort. Even if that does not happen, given the failure of the FTC staff to make a convincing case, and considering the outraged hostility of the scientific and business communities, it is rather difficult to conceive of the FTC commissioners deciding to proceed.

It will be late 1980 before the commissioners get around to considering the matter (after a period for written rebuttals, a new staff report, and a time for public comment), and by then the adversaries will probably have begun to negotiate. ANSI has repeatedly expressed its willingness to modify its procedures so long as it can be done voluntarily. When I asked Mr. Schroeder whether the FTC is willing to talk, he responded, "I would hope that there is room for discussion."

ANSI, although it could probably stand fast and claim total victory, may end up paying ransom, in the form of financial support for consumer groups. The FTC rule, as originally drafted, included just such a funding provision, but it was striken by the commissioners. Matthew Finucane of Ralph Nader's Center for Auto Safety, whom I met at the hearing, told me that even if the standards process is made more open, consumer groups cannot afford to participate without subsidy. The ASTM already spends close to $100,000 annually to subsidize lay review, and ANSI doubtless is willing to do the same. One might speculate that the entire proceeding has been a form of genteel extortion.

No matter what face-saving settlement is reached, the FTC, in failing to enact the rule, will have suffered a defeat, one that the regulators cannot afford. It is all very well for the FTC to be seen badgering used-car dealers and funeral-home directors, but quite another thing to assail the volunteer standards community, only to fall back before a ground swell of righteous indignation.

Why, then, did the FTC investigators embark on this ill-conceived venture? Some people think that bureaucrats lust insatiably for power, but I do not see that as a supportable argument. Perhaps some regulators believe that it is their role to extend their influence as far as possible on the assumption that unrelenting enemies of regulation are doing as much themselves. Such an unfocused aggressiveness, however, does not adequately explain the actions of the FTC staff.

It appears to me that Mr. Schroeder and his colleagues have a consuming impulse to codify the future. Clearly they have no interest in solving immediate problems. Those individuals who claim to have been wronged by the standards establishment are being turned into witnesses in support of some obscure future good. The Bureau of Consumer Protection is so busy making rules that the present needs of consumers go unattended.

To formulate redundant statutes instead of doing the day's work is a perversion of the regulatory function. The few complaints that arise out of the development of standards should be addressed, on a case-by-case basis, by diligent, competent investigation. But complex technological problems will not yield to another sixteen pages of legalistic prose.

Legalistic is the operative word. It is less significant that the FTC staff is young, bureaucratic, and (let us assume) idealistic, than that they are lawyers, and thus imbued with an excessive esteem for words. Instead of using the authority they already have, they create new definitions of authority. Our shelves grow heavy with law books, and our problems go unresolved.

American society is not overregulated. It is overlegislated and undermanned, overwritten and underaccomplished. It is overlawyered and underengineered.

Engineers tend to concentrate on the job that needs doing, and they implicitly place their faith in the ingenuity and good sense of future generations. Lawyers, accustomed to drafting contracts and executing wills, try to command posterity with the sorcery of clever phrases. The conflict over the proposed FTC rule on standards is, philosophically and literally, a battle between the two professions.

Engineers have learned in recent years that misplaced highways and parking lots can blight the very lives they are intended to enhance. Let us hope that regulatory lawyers will learn, with equal grace, that the fertile fields of creativity are to be tended, and occasionally weeded, but not paved over with rules.

Mr. ROBERT C. BYRD. Mr. President, I make the same request for the Senator from Virginia (Mr. HARRY F. BYRD, JR.), for not to exceed 1 minute.

THE CARTER BUDGET FOR 1981

Mr. HARRY F. BYRD, JR. Mr. President, President Carter's budget—including $68 billion in spending increases for this year and next year combined—was released 4 days ago. On each day since its publication, I have called the attention of the Senate to aspects of this budget.

As I have before, I wish once again to point out that if put into effect, the budget for fiscal 1981 will violate the law.

The 1981 budget calls for a deficit of $16 billion. If there actually is such a deficit—or indeed any deficit—this will violate Public Law 95–435, signed into law on October 10, 1978, by President Carter himself.

Section 9 of that law reads as follows:

> Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

The language could hardly be simpler or clearer. Beginning with the year which commences on October 1, 1980, any Federal deficit will be illegal.

Will the Congress comply with the law? We shall see.

Returning once more to analysis of some of the figures in the budget, I would like today to point out some interesting features about the budget for energy.

The administration estimates a net revenue increase of $9 billion as a result of the so-called windfall profit tax—actually an excise tax on oil. The net revenues for the current year would be $6.6 billion, and for 1981 would be $15.6 billion.

The stated purpose of the windfall profit tax is to capture allegedly excessive profits which will accrue to oil companies as a result of price decontrol; these funds to be applied to energy-related public programs.

Now, let us examine the spending for energy. In the current year, fiscal year 1980, energy outlays are $7.8 billion. Next year they will be $8.1 billion, for an increase of about $300 million. Thus, in terms of actual energy outlays, the projected spending increase will consume about 3 percent of the gain in windfall tax revenues.

If we add to this total the sums of energy tax credits for the 2 years, and omit consideration of revenues from sale of U.S. petroleum reserves, we arrive at a figure of $13.5 billion for 1980, and $16.5 billion for 1981. These figures represent total spending and tax credits for energy for the 2 years. The increase in outlays, plus tax credits, is $3 billion. This is still only one-third of the increase in windfall tax receipts.

Finally, if we add the budgetary increases in mass transportation and aid to the poor for heating bills ($800 million) we arrive at a grand total increase of $3.8 billion in budget items with any relation to energy. Thus, of the antici-

pated $9 billion gain in windfall tax revenues, only 42 percent will go for energy and energy-related items.

Even if the remaining 58 percent of the windfall tax increase—$5.2 billion—is set aside for later obligation for energy, the effect of this pattern of taxation and spending is to lower the apparent deficit in the 1981 budget.

I believe the Congress must study carefully this and other gimmicks in the new budget. As the philosopher said, things are not what they seem.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I now ask that morning business be closed.

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

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 5168.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, does Mr. NUNN have control of half of the time?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. NUNN. Mr. President, will the Chair state the pending business?

The PRESIDING OFFICER. The pending business is H.R. 5168.

Mr. NUNN. Mr. President, this bill provides for an extension of Air Force officer-grade tables, and authorizes extensions of certain personnel policies relating to the National Emergencies Act, and amends current law with regard to certain other personnel matters.

This bill contains several personnel items that need to be enacted soon, to avoid a great deal of turbulence in the military services.

AIR FORCE GRADE EXTENSION

First, the number of Air Force colonels and lieutenant colonels currently authorized by Public Law 93–397 expired on September 30, 1979. This authority provided an increase in the number of colonels and lieutenant colonels serving on active duty in the Air Force above the permanent authority in law.

The original Officer Grade Limitation Act, which places limits on numbers of colonels and lieutenant colonels, was passed in 1954. At that time, the Air Force was a comparatively younger branch of the Armed Forces and, thus, needed fewer grade authorizations to provide adequate career progression. In authorizing substantially fewer field grades for the Air Force than the other services, Congress realized that the Air Force would need to seek relief in the form of additional authority as the force matured. The Congress has provided this additional authority on nine previous occasions. The most recent authority was provided by Public Law 95–377, which expired on September 30, 1979.

H.R. 5168 contains an extension of the grades authorized in that law for 1 year, that is through September 30, 1980.

S. 1918, the proposed Defense Officer Personnel Management Act, which recently passed the Senate on November 30, 1979, would provide permanent, more uniform promotion systems among the services, including new grade authorization tables so that temporary grade-relief legislation for the Air Force will no longer be necessary. Since this bill is now awaiting action in the House, the recommendation in H.R. 5168 would simply extend the current grades authorized for 1 year.

NATIONAL EMERGENCIES ACT RELATED PERSONNEL ITEMS

The National Emergencies Act of 1976 terminates the reliance by the Executive Branch on national emergency power to suspend provisions of law. In effect, this act repealed, effective September 15, 1978, every statute which depends upon the declaration of a national emergency for its existence. There are several personnel items that are affected.

Last year, Congress approved a bill to leave the military exactly as they were under existing practices by providing new authority for 1 year for the President to suspend the applicable provisions of law, while Congress continued to work on the Defense Officer Personnel Management Act. H.R. 5168 would again provide authority for the President to suspend through September 30, 1980, provisions of the applicable sections.

Those items involved are:

First. The requirement in law suspended since 1964 that Regular Navy male unrestricted line and limited-duty officers in grade O–3 or above serve a minimum of 2 years sea or foreign service in each grade in order to be eligible for promotion to the next higher grade. S. 1918, as passed by the Senate, would repeal this section.

Second. The requirement in law suspended since 1970 that limits to 5 percent the number of Navy active-list officers who may be recommended for promotion below the appropriate promotion zone. DOPMA, as passed by the Senate, would increase this limit from 5 percent to 10 percent.

Third. The requirement in current law suspended since 1968 that specifies the time that a Navy officer must serve in a grade in order to be eligible for consideration for promotion. DOPMA, as passed by the Senate, would change these sections.

Fourth. The requirement in law suspended since 1950 that allows a member to be retired with disability retired pay if disability is at least 30 percent, if he has at least 8 years of service for disability as a proximate result of performing active duty. This provision is not dealt with in DOPMA and will be reviewed again by the subcommittee next year.

ADDITIONAL CHANGES NEEDED FOR SPECIFIC AUTHORITY BECAUSE OF THE NATIONAL EMERGENCIES ACT

In addition, current service-promotion procedures in some cases rely upon specific authority given to the President in time of war or national emergency. Continuing these procedures for 1 year requires the enactment of specific legislation.

H.R. 5168 provides these specific legislative authorizations again for a 1-year period and again as we did last year. These items are:

First. Providing authority for Navy unrestricted line officers in the grade of lieutenant possessing skills in a critical shortage and serving in lieutenant commander billets, to be temporarily promoted to lieutenant commander. This so-called spot promotion authority would primarily apply to critical engineering billets of nuclear qualified officers. DOPMA, as passed by the Senate, provides 2-year temporary authority for promotion to lieutenant commander so that this provision will be reviewed at the same time the current nuclear officer special pay is reviewed.

Second. Authority to allow temporary and permanent Marine Corps major generals to sit on major general selective boards. The effect of the National Emergencies Act will be to limit the authority to just permanent major generals. This provision in current law is repealed in DOPMA, as passed by the Senate.

Third. Authority under national emergencies power is now used to consider Navy limited duty officers for early promotion. Specific authority needs to be enacted to allow this practice to be continued. This proposal is included in DOPMA, as passed by the Senate.

OTHER PROVISIONS ON PERSONNEL MATTERS

The committee also recommends four other provisions in H.R. 5168 relating to military personnel practices;

ADVANCE PAY UPON REGISTRATION OF AN ALLOTMENT FOR DEPENDENTS

First, a provision to authorize advance pay upon registration of an allotment for dependents, within 60 days prior to deployment of a unit. Under current law, there is no legal authority for advancement of pay to cover an allotment by a member for the member's dependents prior to the deployment of a ship or unit. As a result, a member must take reduced pay for a month to accumulate the amount of the allotment to be made. H.R. 5168 would authorize advancement of the amount of allotment so that the member could leave his dependents home and provide an allotment for them without going through a month of reduced pay. This provision is strongly supported by the Navy and the Department of Defense and would result in no increase in costs.

REMOVING CHAPLAINS FROM UNDER THE COGNIZANCE OF THE CHIEF OF NAVAL PERSONNEL

Second, a provision to remove chaplains from under the cognizance of the Chief of Naval Personnel. This is a Department of Defense legislative proposal—strongly supported by the Navy.

According to the Secretary of the Navy:

Reassignment of the office and functions of the Chief of Chaplains of Naval Personnel to the Chief of Naval Operations staff level would result in organization improvement, add visability to the importance of the functions, place him on equal footing with his contemporaries in other services, and en-

hance his abilities to more effectively perform his mission and responsibilities.

PERMITTING RESERVE AND GUARD MEMBERS OF THE ARMY AND THE AIR FORCE WITH AN IMMEDIATE RETIREMENT ANNUITY UPON COMPLETION OF 20 YEARS ACTIVE DUTY SERVICE

Third, a provision to permit Reserve and enlisted members of the Army and the Air Force to retire with an immediate retirement annuity upon completion of 20 years of active duty service.

The present law provides retirement eligibility with an immediate annuity after completion of 20 years of active service for Regular or Reserve officers of all services and Regular or Reserve enlisted personnel in the Navy and Marine Corps and Regular enlisted personnel of the Army and Air Force. However, Army and Air Force Reserve enlisted personnel are authorized retired pay only at age 60, even though they have completed 20 years of active service.

There are not very many people who have been affected by this restriction. However, the increasing practice of full-time military support for the Reserve and Guard will mean that there will be more of these individuals in the future. The Army and Air Force Reserve enlisted personnel should be treated as are all other military personnel.

ALLOWING RESERVE OFFICERS OF THE ARMY AND THE AIR FORCE SERVING ON ACTIVE DUTY IN POSITIONS OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT TO CARRY THE GRADE OF GENERAL OR LIEUTENANT GENERAL TO RETIRE IN THAT GRADE

Fourth, a provision to allow Reserve officers of the Army and Air Force serving on active duty in positions of importance and responsibility designated by the President to carry the grade of general or lieutenant general to retire in that grade. This provision would be retroactive to January 1969, the date of the Reserve Revitalization Act, which emphasized the total force concept of Regular and Reserve components both contributing to defense efforts.

Under current law, although a Reserve officer can be appointed by the President to a position of importance and serve as lieutenant general or general, only Regular officers can be retired in that grade from serving in such a position.

The total force concept implies that Reserve officers can hold similar positions to Regular officers and should receive the same benefits.

In other words, this places Reserve officers on the same footing as regular officers in terms of retirement of those respective grades.

SUMMARY

In summary, H.R. 5168 would leave the military in the same position as current procedures by:

First. Extending Air Force field grade limits for 1 year .

Second. Providing authority to the President to suspend certain provisions of law through fiscal year 1980.

Third. Enacting specific legislation to extend current authority for 1 year to allow spot promotions of certain Navy lieutenants, below the zone promotion for Navy limited duty officers, and to allow temporary Marine Corps major generals to sit on major general selection boards.

H.R. 5168 also includes provisions on other needed personnel matters with regard to advance pay upon registration of an allotment for dependents, to remove chaplains from under the cognizance of the Chief of Naval Personnel, to permit Reserve enlisted members to retire with an immediate annuity after 20 years active duty service, and to allow Reserve officers of the Army and the Air Force to retire in the grade of general or lieutenant general if they serve on active duty in that grade.

Mr. President, H.R. 5168 does not contain any revolutionary proposals or high-cost military personnel items. It does contain the authority to continue current personnel practices until the Defense Officer Personnel Management Act is finally concluded in conference and enacted into law. It also provides needed revisions in other areas of current law. I urge my colleagues to support this bill.

Mr. President, I understand that the order provides that, if there are amendments that will not require a rollcall vote, these amendments could be debated and voted on today. The principal amendment that will be proposed to this bill, as I understand it now, will be the Armstrong amendment relating to military pay, and a substitute to that amendment will be proposed by Senator WARNER and myself. Those two matters will, in all likelihood, be debated in large part on Monday and voted on pursuant to the request and the unanimous-consent agreement entered into.

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, the distinguished Senator from Iowa (Mr. JEPSEN) is the ranking minority member and has been vitally involved in this legislation, as well as all of the considerations relating to the pay provisions that will be coming up on Monday. I am certain that he might want to make some remarks at this time. If so, before we get to other business, I yield to my friend and colleague, the ranking minority member (Mr. JEPSEN).

The PRESIDING OFFICER. Does the Senator from Iowa wish to be recognized?

Mr. JEPSEN. Mr. President, the Senator from Iowa joins in the remarks of the subcommittee chairman. I have nothing further to add.

Mr. NUNN. Mr. President, does the Senator from Virginia desire to be recognized?

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, before I yield to the Senator from Virginia, and I shall, let me say that the Senator from Virginia has done an enormous amount of work on the legislation, but particularly on the amendments that will be debated on Monday relating to military pay and benefits. The Senator from Virginia has a proposal, which I have joined in as a cosponsor, as a substitute to the Armstrong amendment. The major part of that debate will be on Monday.

I commend and thank the Senator from Virginia for his extraordinary work and diligence in pursuing both the pending legislation and the amendments relating to the crucial matter of military pay and benefits, which have so much impact on the subject that the Senator from Virginia will be talking about this afternoon. That is the overall question of military readiness, which is, of course, so important to our national security. I thank the Senator from Virginia and I call to the attention of my colleagues the diligence and effort that he has put forth on this extremely important subject.

Mr. ROBERT C. BYRD. Mr. President, before the Senator from Georgia yields to the Senator from Virginia, will he yield to me?

Mr. NUNN. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, so that Senators who may be in their offices listening to the debate will be aware of the agreement, at the present time, the Senate has before it H.R. 5168, which is the bill extending certain expiring provisions of law relating to personnel management in the Armed Forces. Under the agreement, this bill will not be finally acted upon today. On today, there is expected to be a closed session, but on Monday, the Senate will continue action on this bill.

On Monday, the only amendments that will be in order will be the amendment by Mr. SCHMITT, the amendment by Mr. ARMSTRONG, and the amendment by Mr. WARNER and Mr. NUNN, which will be a substitute amendment to the Armstrong amendment.

Other amendments may be called up today and voice-voted or acted upon by division, but if rollcall votes are ordered on other amendments today, those rollcall votes will not occur until Monday, and not before 6 p.m. on Monday.

So, if Senators have amendments to this bill, they must call them up today, because the only exceptions are those that I have already enumerated: Mr. SCHMITT, Mr. ARMSTRONG, and the Warner-Nunn substitute.

I thank the distinguished Senator for yielding.

Mr. NUNN. I thank the majority leader.

Mr. President, I yield to the Senator from Virginia such time as he may desire.

Mr. WARNER. Mr. President, I am very grateful to the distinguished Senator from Georgia, the chairman of the Subcommittee on Manpower and Personnel. Mr. President, momentarily, I shall move that the U.S. Senate go into executive session.

The PRESIDING OFFICER. Will the Senator graciously allow the Chair to inquire, is the Senator's intent a closed session?

Mr. WARNER. That is correct. I shall ask that the session be closed, and the ranking minority member of the Senate Committee on Armed Services, Mr. TOWER, as I understand it, will second that request.

Mr. ROBERT C. BYRD. Mr. President, before the Senator seconds the request, I have promised that I would put in a brief quorum, if Senators would allow me, and I assure them it will be very brief.

Mr. WARNER. May I finish a few remarks?

Mr. ROBERT C. BYRD. Yes, of course.

Mr. WARNER. Mr. President, the Armed Services Committee has just finished 2 days of hearings with the Secretary of Defense and the chairman of the Joint Chiefs of Staff as witnesses.

In making my request, I want my colleagues and, indeed, the American public, to clearly understand that this request is not made in any sense to signal fright or undue alarm with respect to the capabilities of the U.S. Armed Forces.

To the contrary, although I think there is a basis for serious concern, I do not join in any way in trying to send out a signal of distress or fright or alarm.

The purpose of this closed executive session is to provide Senators present and those who wish to read the RECORD, a review of the facts with respect to our current state of military readiness and the harmful impact that manpower problems are having on that readiness. I intend during the closed session to reveal facts concerning these negative trends. I emphasize, they are only trends, but they are trends which must be corrected.

To be more specific, there has been a steady decline over the past few years in the numbers of young men and women in the career forces of each of the armed services, particularly in highly skilled and technical job positions.

In order to maintain a readiness posture that is deemed satisfactory, the declining reenlistments, in my judgment and in the judgment of others, must be reversed.

The Senate will be considering on Monday proposals for additional military compensation. It is my judgment that these proposals—and I hope one or the other will be approved by the Senate—will help to reverse these trends. For Senators to form a judgment as to which of the proposals is best suited to meet existing military manpower problems, I have asked for this closed session, such that I can provide for those Senators present and for the record facts on which individual Senators can base their judgment.

At this time, Mr. President, I yield the floor to any others that wish to speak before we go into closed session.

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks to speak before the closed session, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Georgia yield me 30 seconds?

Mr. NUNN. I am glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I urge that any Senators now, who have amendments to the bill, be prepared to call up those amendments today following the closed sessions, with the exception, of course, of those amendments which have been enumerated in the unanimous-consent agreement, which will be eligible on Monday.

Mr. President, I yield the floor.

CLOSED SESSION

Mr. WARNER. Mr. President, I move that the Senate go into closed session.

The PRESIDING OFFICER. The motion has been made that the Senate go into closed session. Is there a second?

Mr. TOWER. Mr. President, I second it.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 2 minutes on behalf of Mr. NUNN.

Mr. President, I ask unanimous consent that during the closed session, in addition to the Secretary of the Senate, the legislative clerk, the Parliamentarian, the Journal clerk, the Sergeant at Arms, and the secretaries to the majority and minority, all of whom are authorized under rule XXXVI, that the following personnel be authorized to be on the floor:

The Assistant Parliamentarian (Mr. Dove);

The Deputy Sergeant at Arms and the Executive Assistant to the Sergeant at Arms (Messrs. Fish and Needham);

The assistant secretaries for the majority and the minority (Messrs. Hynes and Greene);

The chief counsel and professional staff member of the Democratic Policy Committee (Ms. Checchi and Mr. Lipscomb);

The administrative assistant to the minority leader; the legislative assistant to the minority leader; and the Administrative Assistant to the Vice President (Messrs. Cannon, Liebengood, and Smith);

The floor assistant to the minority whip (Ms. Alvarado);

The official reporters of debate (Mr. Walker, Mr. Timberlake, Mr. Zagami, Mr. Mohr, Mrs. Ross, Mrs. Garro, Mr. Smonskey, Mr. Firshein, and Mr. Reynolds; and

The Director of the Office of Classified National Security Information (Mr. Murphy).

The PRESIDING OFFICER. The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXV, directs the Sergeant at Arms to clear the galleries. close the doors of the Chamber, and exclude all officials of the Senate not sworn to secrecy.

[At 2:45 p.m., the doors of the Chamber were closed.]

LEGISLATIVE SESSION

At 4:28 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.

ORDER OF BUSINESS

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time not be charged to anybody.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called 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.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I suggest that our respective cloakrooms inquire of Senators as to whether or not they have any amendments to the pending bill and, within 10 minutes, if we do not hear that a Senator has an amendment which he wishes to call up, we shall go out. That will be with the understanding that, on Monday, no amendments will be in order other than the Armstrong amendment, the Warner-Nunn substitute thereto, and the Schmitt amendment.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 10 minutes, and that Senators may speak therein up to 5 minutes each.

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

THE DEATH OF JAMES EDWIN McTEER

● Mr. THURMOND. Mrs. President, on December 28, 1979, James Edwin McTeer Sr., one of the most outstanding law enforcement figures in South Carolina, died.

Ed McTeer was Beaufort County sheriff for 37 years. He became the Nation's youngest sheriff at the age of 22.

I knew Sheriff McTeer for many years, and he was both a man of distinction and integrity. He was dedicated and sincere in everything he undertook, and was one of the most capable sheriffs the State of South Carolina has ever produced.

Ed McTeer was born in Beaufort County and lived there most of his life. After serving as sheriff for 37 years, he retired in 1963.

He was well known for his knowledge and practice of root medicine, spells, and witchcraft. He practiced what he called white magic and was the author of four books on the subject.

Sheriff McTeer was an outstanding citizen of South Carolina and a legendary figure. Being a devoted friend of mine I feel a great personal loss in his passing.

I extend my deepest sympathy to his lovely wife, Lucille; his devoted sons, J. E., Jr., and Thomas Heyward; and his beloved daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke, and Mrs. Sally Chaplin.

Mr. President, in order to share with my colleagues some articles concerning Ed McTeer's death, 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 Columbia (S.C.), State, Dec. 29, 1979]

FORMER BEAUFORT SHERIFF DIES

BEAUFORT.—Former Beaufort County Sheriff James Edwin McTeer, Sr., widely known as a root doctor and expert on witch-

craft, died Friday at Beaufort Memorial Hospital. He was 76.

McTeer died of pneumonia, emphysema and other complications of old age, a hospital spokesman said.

He served as sheriff for 37 years. After retirement in 1963, he sold real estate in the Beaufort area.

McTeer, a self-proclaimed "white witch doctor," was probably best known for his expertise on root medicine.

McTeer also was often interviewed by writers doing stories about the occult or seeking information about Beaufort County history. He was the author of four books on the subjects. He recently estimated that he had been the subject of about 3,000 articles dealing with witchcraft.

He was born May 2, 1903, in Beaufort County and lived there most of his life. He was a son of the late James Edwin and Florence Heyward McTeer.

Surviving are his widow, Lucille Lupo McTeer; two sons, J. E. McTeer, Jr. and Thomas Heyward McTeer, both of Beaufort; three daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke and Mrs. Sally Chaplin, all of Beaufort; three sisters, Mrs. Catherine Cramer of Charleston, Mrs. Florence Stevens of Bamberg and Mrs. Alfred Lengnick of Beaufort; 12 grandchildren and five great-grandchildren.

The funeral will be 2 p.m. Saturday at St. Helena's Episcopal Church in Beaufort. Burial will be in New Episcopal Cemetery.

[From the Charlotte (N.C.) Observer, Dec. 29, 1979]

S.C.'s "WHITE WITCH DOCTOR," EX-SHERIFF McTEER, 76, DIES

(By Bob Drogin)

He spent his life battling hexes, voodoo and black magic from such evildoers as Dr. Bug and Dr. Buzzard.

In the end, more mortal maladies felled former Beaufort County (S.C.) sheriff and self-described "white witch doctor" James Edwin McTeer.

McTeer, who was 76, died early Friday of pneumonia, emphysema and other complications at Beaufort Memorial Hospital, a hospital spokesman said.

Sheriff for 37 years, McTeer gained a reputation for intercepting bootleggers and confiscating whisky. He sold real estate after his 1963 retirement.

But the tall, thin, bespectacled ex-sheriff was best known for his knowledge and practice of root medicine, spells and witchcraft in the S.C. Low country.

His incantations often involved plastic dolls, exploding horseshoe crabs, floating skulls, graveyard dirt, smoking witch masks and flashing lights. He prescribed amulets filled with roots and dirt.

McTeer practiced what he called white magic. He refused to put curses on, but he routinely removed evil hexes from such opponents as Dr. Buzzard, Dr. Hawk, Dr. Bug and Dr. Eagle. The evil hexes, he once said, "can make you die, make you commit suicide or burn your house down."

Thousands of people visited or called McTeer in his Beaufort office for help with love, business and health. He accepted no money, encouraging patients to contribute to charity.

While sheriff, he relied on his reputation for witchcraft for protection rather than carrying a gun.

In recent months, he helped investigate the bizarre desecration of a Beaufort grave, in which a body was unearthed and decapitated while dolls and strips of paper were hung in nearby trees.

McTeer, a descendant of Declaration of Independence signer Thomas Heyward Jr., said he learned witchcraft from two former slaves on his father's Beaufort County plantation.

He said he inherited extrasensory perception from his mother and grandmother. As a child, he predicted everything from crime waves to times when lots of animals would be run over on the roads.

He wrote four books, including "Fifty Years as a White Witch Doctor." He recently estimated he had been the subject of about 3,000 articles on witchcraft.

Surviving are his wife, Lucille Lupo McTeer; two sons, J. E. McTeer Jr. and Thomas McTeer; three daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke and Mrs. Sally Chaplin; three sisters, Mrs. Catherine Cramer of Charleston, Mrs. Florence Stevens of Bamberg, S.C., and Mrs. Alfred Lengnick; 12 grandchildren and five great-grandchildren.

The funeral will be at 2 p.m. today at St. Helena's Episcopal Church in Beaufort.

[From the Savannah (Ga.) Morning News, Dec. 29, 1979]

S.C. LAWMAN McTEER DIES

BEAUFORT, S.C.—For 37 years, James Edwin McTeer was the law south of the Combahee River. His death here Friday at the age of 76 brought to a close a distinguished career as sheriff, author, white witch doctor and real estate dealer.

The nation's youngest sheriff at age 22, McTeer retired in 1964 but remained an active consultant to local police forces. Earlier this month, he was still involved with police work as he helped investigate an unsolved voodoo-related grave desecration.

Within a few minutes of his death at 7:20 a.m. Friday of what a Beaufort Memorial Hospital spokesman described as emphysema, pneumonia and complications of age, word of his death began circulating within the community and state.

One of the first to learn of his death was Leroy Keyserling, a life-long friend and fellow member of the informal "coffee club" which has met each morning for a quarter of a century at a table at Harry's Restaurant on Bay Street. McTeer, according to Keyserling, was in "good spirits" last week during the morning get-together.

McTeer, who received national publicity this month for his self-proclaimed practice of white magic and role in the investigation of the possible voodoo case, entered the hospital Monday. He was reported to be in stable condition as recently as Wednesday afternoon.

With the discoveries four weeks ago of a rural grave which had been disturbed and the head of a traffic victim severed from the torso, reporters from as far away as Boston made the short walk from Bay Street to the former sheriff's modest green office at 214 West St.

Here, identified simply by a small hanging sign reading, "J. E. McTeer," the former lawman as recently as last week held "voodoo" rituals for the benefit of newsmen sent here to "follow up" the grave story.

He had been hospitalized briefly last summer following ceremonies naming the new Beaufort River highspan bridge in his honor.

While his age was not in his favor, some of his friends Friday expressed surprise at his death, although they were aware he had been hospitalized.

All those interviewed, from South Carolina Gov. Dick Riley to persons charged with carrying on his tradition of criminal investigation here, were unanimous in stating that McTeer had been a "living legend" and a rare individual who combined a career of law-keeping with business and historical and biographical authorship. With three of his four books out of print, a local bookstore reported having many inquiries for his books which could not be filled.

"The people of Beaufort County and South Carolina have lost a true friend and faithful servant," said Gov. Riley. Brantley Harvey Jr., former lieutenant governor from Beaufort, noted that he had recently taken depositions from McTeer about his Prohibition-era illegal liquor searches along the Savannah River for use in the present boundary dispute between South Carolina and Georgia.

With funeral services scheduled for 2 p.m. today at St. Helena's Episcopal Church and burial in the church cemetery across the street, a large turnout is expected among the citizens of this area and law enforcement officials.

"I expect many of his friends in law enforcement to be here," said Beaufort Police Chief Jesse Altman. "He was one of the finest law enforcement men anywhere. . . . It is a real loss to the community."

Beaufort County Sheriff Morgan McCutcheon praised McTeer as a "real student of human behavior" who could predict when certain types of crimes would be committed.

Known as the "high sheriff of the Low Country," McTeer followed his father as sheriff here at his death in 1926.

Born May 2, 1903, in the Red Dam section of Beaufort County—since included in Jasper County and soon to be the site of a state park—McTeer moved as a boy to the Grays Hill section of Beaufort County and spent most of his life intimately involved in almost every detail of the county's development.

Survivors include his wife, Lucille, two sons, J. E. Jr. and Thomas Heyward, and three daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke and Mrs. Sally Chaplin, all of Beaufort; three sisters, Mrs. Catherine Cramer of Charleston, Mrs. Florence Stevens of Bamberg and Mrs. Alfred Langnick of Beaufort; 12 grandchildren and five great-grandchildren.

His family Friday requested that memorials be made to the Beaufort Memorial Hospital.

[From the Charleston Evening Post, Jan. 2, 1980]

HIGH SHERIFF OF THE LOWCOUNTRY

James E. McTeer's extraordinary interests made him no ordinary man. He was a pioneer in the two areas for which he is best remembered—law enforcement and the study of witchcraft.

In 1926 at the age of 22, McTeer became a national celebrity when he became the youngest sheriff in the United States. Selected as sheriff of Beaufort County, he served the people in that area for 37 years.

As sheriff and after he retired, McTeer also served them in another capacity as a self-proclaimed "white witch doctor," a practitioner of root medicine. It was said McTeer could remove a hex or cure an illness with his medicine. People traveled far and wide to consult him.

McTeer enriched the study of witchcraft and the occult by writing four books on the subject. He was considered by many to be the Southeast's leading expert on African witchcraft or voodoo, and his collection of books on witchcraft is one of the largest in the country.

McTeer died on Dec. 28. The "High Sheriff of the Lowcountry" will be missed by his many friends and admirers.

FRIEND OF SENATORS—JOSEPH V. MACHUGH

Mr. HEFLIN. Mr. President, I want to pay respect and honor to a friend of every U.S. Senator, Joseph V. Machugh, 225 A Street NE., Washington, D.C. Joe Machugh has known every person to serve as a U.S. Senator for more than 30 years. His warm personality, his meaningful handshake, his pleasant smile, his affable friendship, his perceptive wisdom and intelligent counsel, have aided each Senator in carrying out his

responsibilities and fulfilling his duties. He has been called on many occasions, the Bernard Baruch of the Senate.

I ask unanimous consent that his recent white paper entitled "Skillful Guidance—Secret Weapons To Resolve Controversy" be printed in the RECORD.

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

SKILLFUL GUIDANCE—SECRET WEAPON TO RESOLVE CONTROVERSY

Despite effort to end poverty in America—Holy Writ says: "For ye have the poor always with you;" and problems, controversy and crises still plague people—everywhere! To meet a problem—start at the beginning, recognition of which requires rare understanding of human nature—and objectivity. Politicos oft proclaim: "I know problems of my constituency" but just knowing there are problems is a far cry from coping with them. Understanding complex situations calls for detailed familiarity with origin, cause and growth of the problem. Only after objective analysis—should decision be made about what to do. An early query could be: Is there any precedent concerning a similar plight? What happened in that case? Did it succeed? If not, why not? Were any further efforts made thereafter?

No generalization (including this one) invariably is true. Yet, with wide pertinence it is safe to say: "Every controversy involves opposite points of view." Isn't that exactly what controversy is all about? In meeting a challenge—one priority should seek to ascertain what are those conflicting views? Thomas Eliot said: "Humility is the most difficult of all virtues to achieve." For it puts others' interest before self. So, early attention should focus not on their own views (only too clearly known)—but on views firmly held by opponents! Lawyers are wont to assume "Role of The Devil's Advocate" to grasp more fully those opposing stances.

In the majestic field of civil law—early English Courts were: "of law" and "of equity." The latter originally were called: "Courts of the King's Conscience" before being renamed as Equity Courts—which were considered necessary for broad administration of justice—previously hampered by both inadequacy and rigidity of Law Courts when operating alone. One maxim of equity prescribed that: "No recourse to an equity court would be allowed—if already there exists a plain, adequate and complete remedy at law!" The maxim is cited here in a belief it is somewhat similar to alternative methods for settling controversy: Mediation, primarily analytical and persuasive; and enforcement, which entail constraint and penalty.

When "those other viewpoints" have been isolated and considered impartially "a mood for Mediation" may be near at hand—provided resort to mandatory enforcement is being held in abeyance! The word mediate (from Latin roots) means "to halve" or "being in the middle." Mediator is a person interposed between opposing Parties—as equal friend of each—to effect reconciliation between them. Doesn't that definition demonstrate convincingly that before any mediation is initiated—The Mediator must have been accepted on both sides? Experienced mediators lose no time making those other views known to all concerned, thereby laying a foundation for gradual approach to complete settlement of the controversy. For, when each side hears its stance emphasized to the opponents—a sense of victory (if minor) emerges on both sides, leaving an open door for still further reconciliation.

Two guidelines come to mind: "Dialogue defuses dangers" (because, as opponents talk-together—forceful confrontation—at least is delayed;) and "with wisdom—every controversy can be resolved." They are titles of two earlier Essays by the Writer, some context of which may help to clarify the basic theme of this Essay. Perhaps a foremost need today—many more Mediators with "a forte of visualizing workable balances between extremes that threaten continuance of powder kegs; and supplemented by compelling persuasiveness "to win over adamant opponents with deep-rooted and long-simmering grievances." That priceless qualification may restrain and/or prevent resort to more costly, dangerous and "futile use of naked force" that finally could destroy the fabric and substance of modern Civilization.

Like parents, teachers and all true leaders—Skilled Mediators, with intimate knowledge of the subject (including its difficulties and dangers)—show the way to willing followers. As a pragmatic experience—just ponder perceptively and presciently this trenchant triad, provocative thought:

(1) Is there—"a guidance gap?"

(2) Good guidance—generates gradual gains:

(3) Accordingly—why not—get with skilled guidance?

Composed January 15, 1980 by: Joseph V. Machugh.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AMENDMENT TO AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY—MESSAGE FROM THE PRESIDENT—PM 156

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to section 123 d of the Atomic Energy Act of 1954 (42 U.S.C. 2153), as amended, the text of the proposed amendment to the Agreement for Cooperation Between the United States of America and the International Atomic Energy Agency. The proposed amendment is accompanied by these items:

—My written determination, approval and authorization concerning the Agreement;

—The memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the amendment;

—The Joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary of the provisions of the amendment; and

—The views of the Nuclear Regulatory Commission.

The United States began negotiating for the proposed amendment in late 1977. This was done in anticipation of the passage of the Nuclear Non-Proliferation Act, which calls upon me to renegotiate existing agreements for peaceful nuclear cooperation so as to bring them into line with the Act's provisions. In my judgment the United States-IAEA agreement will meet all statutory requirements once this amendment is added.

The IAEA is a key element in the framework of international cooperation in the peaceful uses of nuclear energy, and I am pleased to forward an amendment designed to strengthen our cooperation with the Agency. The proposed amendment will, in my view, further the non-proliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed amendment and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and I urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *February 1, 1980.*

SOCIAL SECURITY AGREEMENT BETWEEN THE UNITED STATES AND THE SWISS CONFEDERATION—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents, which was referred to the Committee on Finance and the Committee on Foreign Relations, jointly, by unanimous consent:

To the Congress of the United States:

Pursuant to section 233(a)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (P.L. 95-216, 42 U.S.C. 1305 note), I transmit herewith the Agreement between the United States of America and the Swiss Confederation on Social Security, signed on July 18, 1979, the Final Protocol to the 1979 Agreement, also signed on July 18, 1979, and the Administrative Agreement for the Implementation of the 1979 Agreement, signed on December 20, 1979.

These U.S.-Swiss agreements are similar in objective to the U.S.-Italian social security agreements that I transmitted to the Congress on February 28, 1978, and to the U.S.-West Germany social security agreements that I transmitted to Congress on February 28, 1979. These bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems created by gaps in protection and by dual coverage and taxation.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health, Education and Welfare, which explains the provisions of the Agreements and provides data on the number of persons affected by the Agreements and on their effect on social security financing, as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education and Welfare join in commending his Agreement, Protocol, and Administrative Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *February 1, 1980.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, received earlier today, relative to United States-Swiss agreements on social security, be jointly referred to the Committees on Finance and Foreign Relations.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 1, 1980, he presented to the President of the United States, the following enrolled bill:

S. 423. An act to provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of minor disputes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EXON, from the Committee on Armed Services: Robert J. Murray, of Virginia, to be Under Secretary of the Navy.

Joseph Charles Zengerle III, of the District of Columbia, to be an Assistant Secretary of the Air Force.

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

Mr. EXON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: in the Reserve of the Army and Army National Guard, there are 46 appointments (14 to the grade of major general; and 32 to the grade of brigadier general) (list beginning with Charles Dounley Barrett); in the Air Force, Gen. James A. Hill, (age 56) for appointment to the grade of general on the retired list, Lt. Gen. Robert Couth Mathis, (age 52) to be general as Vice Chief of Staff, Maj. Gen. Philip Charles Gast, (age 50) to be lieutenant general as Vice Commander, Tactical Air Command, and Maj. Gen. William Richard Nelson, (age 53) to be lieutenant general as Commander, 12th Air Force (Tactical Air Command); there are 57 officers for temporary appointment (1 to the grade of major general; and 56 to the grade of brigadier general) (list beginning with John T. Randerson); in the Reserve of the Air Force, there are 17 appointments (5 to the grade of major general; and 12 to the grade of brigadier general) (list beginning with Stuart P. French); in the Navy, Vice Adm. Forrest S. Petersen (age 57) for appointment to the grade of vice admiral on the retired list; and in the Marine Corps, Maj. Gen. Paul X. Kelley (age 51) to be lieutenant general, as Commander, Rapid Deployment Joint Task Force, Readiness Command, MacDill Air Force Base, Fla. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. EXON. In addition, Mr. President, there are 873 lieutenant commanders in the U.S. Navy for temporary promotion to the grade of commander (list beginning with Charles E. Aaker), there are 2,135 officers for temporary and permanent promotions to the grade of lieutenant commander (list beginning with Robert J. Abbott); and in the Navy and Naval Reserve there are 598 temporary and permanent promotions to the grade of commander (list beginning with John W. Aldis); in the U.S. Naval Academy, there are 159 graduates for appointment to the grade of second lieutenant in the Marine Corps (list beginning with John H. Adams); in the Air Force, there are 700 officers for promotion to the grade of colonel (list beginning with Rallin J. Aars); in the Air Force and Reserve of the Air Force, there are 95 officers for promotion to the grade of colonel and below (list beginning with Neil A. Barbour); in the Reserve of the Air Force, there are 256 officers for promotion to the grade of colonel (list beginning with Howard J. Alexander); and, in the Air National Guard, there are 36 officers for promotion in the Reserve of the Air Force to the grade of lieutenant colonel (list beginning with Maj. Robert C. Bonham). 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 appeared in the RECORD on December 20, 1979 and January 22, 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. CANNON (for himself and Mr. PACKWOOD):

S. 2245. A bill to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, and Mr. BOREN):

S. 2246. A bill to continue rail service by the Chicago, Rock Island, and Pacific Railroad for 90 days; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE:

S.J. Res. 140. A joint resolution entitled, "Iwo Jima Commemoration Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2245. A bill to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER REFORM ACT OF 1980

Mr. CANNON. Mr. President, during the past year the Commerce Committee has undertaken an intensive inquiry into the question of Federal regulation of the motor carrier industry. To the best of my knowledge, this has been the first major congressional look at the framework of motor carrier regulation since the basic statutes were enacted some 45 years ago. During this inquiry, the committee held some 14 days of hearings and heard from well over 200 witnesses representing literally tens of thousands of firms and individuals affected by truck transportation in this country.

The committee focused on a great number of areas. In particular, we were concerned about the effect of regulation upon inflation, fuel consumption, small communities, small shippers, employees within the industry, minorities and small business people desiring to get into the industry and, of course, the established carriers and shippers that make up the heart of the transportation industry.

When the debate began last year, I indicated that I would approach the issues with a completely open mind. I truly believe that this committee has given the issues fair and thorough review. It is now time to make the hard decisions that will be required to resolve the issues once and for all.

After sitting through these many hearings, listening to all of the witnesses, and reviewing the evidence submitted, I have personally concluded that deregulation of the trucking industry is not in the public interest. The transportation industry in this country is comprised of a complex network of shippers and carriers with longstanding relations with each other. Many of these relationships are a direct result of the existing regulatory structure. To abruptly and totally dismantle this structure would be to jeopardize the stability and reliability of the Nation's transportation system. Accordingly, I have decided that I will not support any move to totally deregulate the trucking industry.

On the other hand, I do not believe that a statute designed to meet the transportation needs of the 1930's should remain unchanged as we enter the 1980's. It is my belief that there is a good deal within the existing laws that could and should be reformed in order to reflect changes in the economy and in the transportation industry that have occurred during the past 45 years.

Accordingly today, together with my distinguished colleague from Oregon, the

ranking minority member of the Commerce Committee, we are introducing the Motor Carrier Reform Act of 1980. This is a bill that would implement significant changes in the regulatory structure affecting the motor carrier industry, but would stop far short of deregulating this vital industry. While I am sure there are some who will disagree, this bill, in my considered judgment, will lead to an improvement in the Nation's transportation system, without adversely affecting the quality or quantity of service to small communities and small shippers and the status of employees within the motor carrier industry. At the same time, it is certainly likely that some firms and individuals would benefit more than others from the legislation. For example, this bill, if enacted, will put a premium upon the efficiency and effective management. It will improve opportunities for minorities and small businesses. It will reward innovation and creativity.

Mr. President, this bill will accomplish something else. It will bring an end to the uncertainty of the regulatory structure for motor carriers within this country. It will allow the transportation industry to know the ground rules in advance and provides explicit direction to the commission and guidelines within which it may operate. As you know, during the past few months, I have been very critical of the apparent attempts by the Interstate Commerce Commission to usurp the prerogatives of Congress with respect to major regulatory changes. If this bill is enacted, the roles of the Commission and the Congress will be clearly spelled out.

Each time I have criticized the Commission, I have emphasized that my criticism did not necessarily reach the merits of what the Commission was proposing, but the methods being used. Despite this consistent admonition in my statements, people have frequently misinterpreted what I have said as indicating a deep disapproval of all Commission proposals. As will be evident from reviewing this legislation, I personally believe that many of the reforms that the Commission has proposed in the past few years are constructive and beneficial to the transportation system. I am however, convinced that the Commission's approach of across-the-board changes for all carriers regardless of individual circumstances is wrong.

In this bill, the Commission will be prohibited from wholesale removal of operating restrictions without looking on a case-by-case basis at the effects of each removal. The Commission will be prohibited from instituting a so-called "master certificate" concept in which one general finding of public need is made for a specific type of transportation without looking at the individual carriers and situations involved. I believe that many restrictions on operating rights should be modified. I believe that in many areas entry should be reasonably free. But I firmly believe that the Commission has an obligation to look at each individual circumstance to decide whether the national transportation policy would be served by such decisions.

It is no secret that there are some aspects of this bill that will be controversial. Perhaps the most significant is the proposed phasing-out over a 3-year period of time of immunity from the antitrust laws for the purposes of discussing and voting upon single-line rates. In effect, this legislation puts a 3-year moratorium on action that the Interstate Commerce Commission has already voted to approve that would prohibit carriers from discussing single-line rates with each other. I have carefully weighed the evidence that I have seen on this very sensitive issue, and I am fully aware of its implications. There are many people within the motor carrier industry and many shippers who believe that such a change would result in serious problems with respect to transportation pricing. On the other hand, there are many others, including the administration, Members of Congress, and certain shippers and carriers, who are highly critical of the proposal to delay the action contemplated by the Commission on this issue. In some respects, the debate is between those who believe that emphasis should be placed upon developing a system that leads to maximum stability of rates for truck transportation, and those who believe that the system should be structured to allow maximum competitive response to demands of the marketplace.

One of the reasons why many critics of eliminating any degree of antitrust immunity foresee such grim results is because of the incredibly complicated and complex structure of motor carrier rates and tariffs. It has become abundantly clear to me from my review of this issue that there is a crying need for a simplification of tariffs and the general rate structure of the motor carrier industry. This should go hand-in-hand with a simplification of commodity descriptions and territorial limitations. Such simplifications would greatly reduce the adverse results of modifying collective ratemaking. But such processes take time. That is one reason why I believe it is absolutely necessary to phase-out any immunity that Congress chooses to do so over a period substantially long enough to allow carriers to meet the demands of the new environment.

The second reason for proposing such a 3-year phase-in, quite frankly, is to provide Congress a thorough opportunity to review the major reforms being taken in other areas of the law and the procedural reforms being enacted in the rate bureau structure before the effective date of the lifting of antitrust immunity for single-line rate discussions. In simple terms, the 3-year delay provides us with an escape valve in case the reforms that are implemented do not work as well as we had hoped.

Apart from this section, there are many other provisions in the bill that would streamline regulation of the motor carrier industry by reducing procedural barriers to entering the industry and operating on a day-to-day basis, provide greater freedom to set rates in response to market demands, provide greater opportunities for carriers to earn adequate profits, and provide more choices for shippers in obtaining transportation services.

The Commerce Committee will carefully review today's proposal. Next week we will announce hearings for the week of February 25. These hearings will focus specifically on the provisions of this bill and will allow the major parties an opportunity to comment and provide their suggestions for changes to the bill.

We are anxious to hear from all interested and affected parties and would welcome comments or suggestions for improvement. I can assure you that this bill is not cast in concrete. Senator PACKWOOD and I are far from infallible.

Oral testimony will be severely limited, but we encourage any interested parties to submit in writing their specific proposals for amendments of this bill, or if they choose to do so, general comments on the bill.

As you may know, I have given my personal commitment to doing everything in my power to see that a bill is on the desk of the President by no later than June 1, 1980. My counterparts in the House of Representatives, Public Works Committee, Chairman BIZZ JOHNSON and Transportation Subcommittee Chairman JIM HOWARD, have joined with me in a commitment toward this goal. The Commerce Committee, as a result, will proceed to markup quickly after the hearings have been held. I do want to emphasize that this bill is a completely bipartisan effort. I commend greatly the participation and leadership of Senator PACKWOOD on this issue in the committee. His views and insights on this subject have been of extreme value, and his active participation in the hearing process has been unduplicated by any other member of the committee.

Mr. President, in a few days I shall submit a detailed section-by-section analysis of this bill. In the meantime, I ask unanimous consent that the bill that I am introducing today be printed in the RECORD.

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

S. 2245

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 "Motor Carrier Reform Act of 1980".

PURPOSE OF THE BILL

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking

industry; that protective regulation has resulted in operating inefficiencies and anti-competitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 1010(a) of title 49, United States Code, is amended—

(1) in paragraph (5) by striking "; and" and substituting ";";

(2) in paragraph (6) by striking "industry." and substituting "industry; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) With respect to transportation of property by motor carrier, to rely to the maximum extent feasible upon actual and potential competition in order to (A) meet the needs of shippers and receivers; (B) allow a variety of quality and price options to meet changing market demands; (C) achieve maximum utilization of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide service to small communities and small shippers; and (F) improve and maintain a sound privately owned motor carrier system.".

MOTOR CARRIER ENTRY POLICY

SEC. 5. Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carriers";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all cross references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) The Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under this subchapter as a motor common carrier of property—

"(A) if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and the regulations of the Commission; and

"(B) unless the Commission finds, on the basis of a preponderance of evidence in the record, or upon its own initiative, that the transportation to be provided would be inconsistent with the present or future public convenience and necessity. In making a determination pursuant to this subparagraph, the Commission shall consider—

"(i) the transportation policy set forth in section 10101(a) of this title;

"(ii) evidence of public support for an application or other demonstration of public need; and

"(iii) the existing quality and quantity of service, but shall not find that diversion of revenue or traffic from an existing carrier is in and of itself inconsistent with the public convenience and necessity.

"(2) In no event may the Commission issue any certificate based upon general findings regarding public convenience and necessity developed in rulemaking proceedings.

"(3) The provisions of subparagraph (1)(B) of this subsection shall not apply for applications for authority to provide—

"(A) transportation to any point not served by a motor carrier of property certificated under this section;

"(B) transportation services as a direct substitute for abandoned rail service if such application is filed no later than 90 days after such abandonment;

"(C) transportation for the United States Government of commodities other than used household goods, hazardous or secret materials, and sensitive weapons and munitions; or

"(D) transportation of packages weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds: *Provided*, That notwithstanding any other provisicn of this title, any carrier holding authority under this subparagraph operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or greater shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary pursuant to this title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(4) No motor carrier of property may protest an application to provide transportation as a motor common carrier of property filed under this section unless—

"(A) it possesses authority to handle, in whole or in part, the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the shippers involved, and has performed service within the scope of the application during the previous 12-month period;

"(B) it has filed an application prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other legitimate interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(5) Notwithstanding the provisions of paragraph (4) of this subsection, no contract motor carrier of property may protest an application to provide transportation as a motor common carrier of property filed under this section.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection.

"(h)(1) No later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate all gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, expedited procedures to process applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) broaden the categories of commodities authorized by the carrier's certificate;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to subparagraph (1)(C) of this subsection shall provide for final Commission action upon such applications by no later than 120 days after the date the application is filed with the Commission. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under subparagraph (1)(C) of this subsection, the Commission shall consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title.".

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States, Code, is amended—

(1) by striking "a motor vehicle carrying, for compensation, only" and substituting "transportation by motor vehicle of";

(2) in subparagraph (A) by striking "livestock;" and substituting "livestock and uncooked meat;";

(3) in subparagraph (C) by striking "bananas," and by striking the word "and" at the end thereof;

(4) in subparagraph (D) by inserting the word "and" at the end thereof; and

(5) by adding at the end thereof the following new subparagraph:

"(E) livestock and poultry feed, agricultural seeds and plants, if such commodities are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8) transportation by motor vehicle incidental to transportation by aircraft, including transportation of property by motor vehicle as part of a continuous movement which, prior or subsequent thereto, has been or will be transported by aircraft, or occasional transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft due to circumstances beyond the control of the carrier or shipper; or".

OWNER-OPERATORS

SEC. 8. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10527. Exempt transportation by owner-operators

"(a) Subject to the provisions of this section Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by a motor vehicle operated by an owner or a person accompanied by an owner if such transportation is completely under the control of the owner-operator, performed completely on its own behalf, and is—

"(1) subsequent to a movement of property whose transportation is exempt under paragraph (6) of section 10526 of this subchapter;

"(2) in a single movement or in one or more of a series of movements in the general direction of the general area in which such motor vehicle is based or in the general direction of the general area of the origin from which the preceding exempt movement was made;

"(3) at a rate, fare, or charge at least equal to the lowest rate, fare, or charge for that same transportation filed and put into effect by any certificated common carrier; and

"(4) such motor vehicle is registered with the Commission under subsection (b) of this section and such registration is in such motor vehicle and indicated in such manner on the exterior of such motor vehicle as the Commission may require by regulations.

"(b) The Commission shall issue a registration to the owner of a motor vehicle authorizing such person to provide transportation under this section if—

"(1) such person files with the Commission a bond, insurance policy, or other type of security approved by the Commission under section 10927 of this title and of such amount as the Commission may determine; and

"(2) such person has designated in writing and in accordance with such regulations as

the Commission may issue, an agent in each State in which such motor vehicle is operated on whom service of process in a court proceeding may be made.

"(c) The Commission shall expedite the issuance of registrations under this section.

"(d) Failure to comply with any of the provisions of this section by a person holding a registration under this section shall nullify such registration.".

(b) The index for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Exempt transportation by owner-operators.".

PRIVATE CARRIAGE

SEC. 9. (a) Section 10524 of title 49, United States Code, is amended by designating the existing language as subsection (a) and by adding at the end of the section the following new subsections:

"(b) In addition to the transportation described in subsection (a), the Commission does not have jurisdiction over transportation for compensation provided by a person who is a member of corporate family for other members of the same corporate family if—

"(1) the parent notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent owns directly or indirectly an interest of 51 percent or more in each of the subsidiaries;

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a Commission-receipted and returned copy is carried in the cab of all vehicles conducting the transportation.

"(c) For the purposes of this section, a 'corporate family' means a corporation or group of corporations consisting of a parent and all subsidiaries, including unincorporated divisions and other parts of such corporation or group, in which the parent owns directly or indirectly an interest of 51 percent or more in each of the subsidiaries.".

(b) Section 10102(13) of title 49, United States Code, is amended by inserting "or a member of a corporate family as defined in section 10524(c) of this title," immediately after "means a person,".

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended by striking "a person or a limited number of" and substituting "one or more".

(2) Section 10923(b)(2) of title 49, United States Code, is amended—

(A) by striking subparagraph (A), and

(B) redesignating subparagraphs (B), (C), and (D), and all cross references thereto, as subparagraphs (A), (B), and (C), respectively.

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a contract carrier, the Commission may not require a contract carrier to limit its operations to carriage for a particular industry or within a particular geographic area or require a contract carrier to enter into contracts only with the owner of goods to be shipped"; and

(B) in paragraph (2) by striking "or number".

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or", and

(2) by amending paragraph (2) to read as follows:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "or motor contract carrier of property" after "carrier"; and

(2) in paragraph (b)(1) by striking "or water common carrier" and substituting "water common carrier or motor common carrier of property".

(d) Section 10766(b) of title 49, United States Code, is amended by striking "common" in the first sentence and by striking the fifth sentence thereof.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) On application of the holder of a motor contract carrier permit, or on complaint of an interested party, or on its own initiative, and after notice and an opportunity for a proceeding, the Commission may amend or revoke any part of the permit and issue in its place a certificate of public convenience and necessity, if the Commission determines that the operations of the holder of the permit—

"(1) do not conform with the operations of a motor contract carrier; and

"(2) are those of a motor common carrier.

Any certificate issued under this subsection shall specify that its holder is authorized to provide transportation as a motor common carrier, of the same commodities between the same points or within the same territory as authorized in the permit.".

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

"(1) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(2) the aggregate of increases or decreases in any such rate is not more than 10 percent above the rate in effect 1 year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980, or the rate in effect 1 year prior to the effective date of the proposed rate.

Nothing in this subsection shall limit the Commission authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

RULE OF RATEMAKING

SEC. 12. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706 of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment, and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall enable the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable esimated or foreseeable future costs.".

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers, other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide transportation or service.".

RATE BUREAUS

SEC. 13. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h), and all cross references thereto, as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by adding the following new subsection after subsection (a):

"(b)(1) For the purpose of this subsection, 'single-line rate' refers to a rate, charge, or allowance by a single motor carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier.

"(2) As provided by this subsection, motor common carriers of property may enter into agreements between two or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them. Such agreements may be submitted to the Commission for approval by any carrier or carriers party thereto and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers that transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in section 12 of title 15, do not apply to parties and other persons with respect to making or carrying out the agreement.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000,000. For the purposes of this subparagraph, the term 'affiliate' means a person controlling, controlled by,

or under common control or ownership with another person and 'ownership' means equity holdings in a business entity of at least 5 percent.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) the organization may allow any member carrier to discuss any rate proposal docketed except as provided in subparagraph (3)(C) of this paragraph but after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal:

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiate the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items.

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers, nor shall organization employees or employee committees make specific recommendations with regard to changes in tariff items, except that such employees or employee committees shall not be prohibited from reporting generally on statistical cost and economic data with regard to justification or lack of justification for general increases or broad rate restructurings;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented;

"(vii) the organization may not docket or handle rates for intrastate transportation without specific authorization from the States involved; and disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates proposed pursuant to section 10708(d) of this title.

"(D) Effective July 1, 1983, no agreement approved under this subsection may provide for discussion of or voting upon single-line rates.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted or agreed on a rate of allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.".

(b) No later than July 1, 1982, the Commission, the Secretary of Transportation, and the Comptroller General shall submit separate reports to the Congress upon the probable effect of eliminating antitrust immunity for the discussion of single-line rates pursuant to the provisions of this section and upon the need or lack of need for continued antitrust immunity with respect to joint rates. Such reports shall describe the preparations taken by the motor carrier industry and shippers for the transition to the elimination of such immunity, estimate the impact of the elimination of such immunity upon rate levels and rate structures, and describe the impact of the elimination of such immunity upon the Commission and its staff.

(c) Section 10706(c) of title 49, United States Code, as redesignated by this Act, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor carrier of property)".

LUMPING

SEC. 14. (a)(1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code is amended by inserting the following new section immediately after section 11108—

"§ 11109. Loading and Unloading Motor Vehicles

"(a) Whenever a consignor or consignee requires that persons who own or operate motor vehicles transporting products moving in interstate commerce be assisted in loading or unloading of such vehicles, the consignor or consigneee shall be responsible for providing that assistance or must compensate the persons who own or operate such vehicles for all costs associated with securing and compensating the person providing the assistance.

"(b) It shall be unlawful to coerce or attempt to coerce a person who owns or operates motor vehicles transporting products moving in interstate commerce to employ loading or unloading assistance which consignors or consignees do not require or which the owner or operator of the motor vehicle would not otherwise employ."

(2) The index to chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following after item 11108:

"11109. Loading and unloading motor vehicles.".

(b) Section 11109 of title 49, United States Code, is amended by inserting the following new subsection at the end thereof:

"(h) Any person knowingly authorizing, consenting to, or permitting a violation of section 11109(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation."

(c)(1) Chapter 119 of title 49, United States Code, is amended by adding the following new section immediately after section 11916:

"§ 11917. Criminal Penalties for Violations of Rules Related to Loading and Unloading Motor Vehicles

"Any person that violates section 11109(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both."

(2) The index for chapter 119 of title 49, United States Code, is amended by adding the following at the end thereof:

"11917. Criminal Penalties for Violations of Rules Related to Loading and Unloading Motor Vehicles.".

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 15. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of persons" after "transportation" in the first place it appears;

(2) by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b), a license to a person authorizing the person to be a broker for transportation of property subject to the jurisdiction of the Commission under subchapter II of chapter 105, if the Commission finds that the person is fit, willing, and able—

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission."

(b) Subchapter I of chapter 111 is amended by redesignating section 11108 (and any reference thereto) as section 11109 and by inserting after section 11107 the following new section:

"§ 11108. Contracts for Exempt Agricultural Transportation

"The Interstate Commerce Commission shall require, by regulation, the use of written contracts governing the interstate movement by motor vehicle of property described in section 10526(a)(6) of this subtitle. In promulgating such regulation, the Commission shall prescribe the minimum requirements and conditions of such written contracts."

(c) The index for subchapter I of chapter 111, title 49, United States Code, is amended by striking the item relating to section 11108, and inserting in lieu thereof the following:

"11108. Contracts for exempt agricultural transportation.

"11109. Water carriers subject to unreasonable discrimination in foreign transportation.".

FINANCE EXEMPTIONS

SEC. 16. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking the "more than $300,000" and substituting "more than $1,000,000".

UNIFORM STATE REGULATIONS

SEC. 17. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulations. Therefore, the Congress directs the Secretary of Transportation, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress no later than 18 months after the enactment of this section.

POOLING ARRANGEMENTS

SEC. 18. Section 11342 of title 49, United States Code, is amended by—

(1) striking the language in subsection (a) following the first sentence;

(2) redesignating subsections (b), (c), and (d), and all cross references thereto, as subsections (c), (d), and (e), respectively; and

(3) by inserting the following new subsection immediately after subsection (a):

"(b) Any motor common carrier of property that is a party to such an agreement or combination may apply for Commission approval of such agreement or combination by filing said agreement or combination with the Commission not less than 30 days before its effective date. Prior to the effective date of the agreement or combination, the Commission shall determine whether the agree-

ment or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to the effective date contained in the agreement or combination and without hearing, approve the agreement or combination. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall enter upon a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition; and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After full hearing, the Commission shall (1) indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation, and will not unduly restrain competition, and (2) to that extent, approve and authorize the agreement or combination, if assented to by all the carriers party to the agreement or combination, under such rules and regulations, and for such consideration between such carriers and upon such terms and conditions, as shall be found by the Commission to be just and reasonable.".

JOINT RATES AND THROUGH RATES

SEC. 19. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)" immediately after "subchapter I".

(b) Section 10705(a) of title 49, United States Code, is amended—

(1) in the first sentence of paragraph (1) by striking "(except a motor common carrier of property)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting the following new paragraph immediately after paragraph (2):

"(3) The Commission may not require a motor common carrier of property, without its consent, to include in such through route substantially less than the entire length of its route and the route of any intermediate carrier operated in conjunction and under a common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless such inclusion of lines would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient or more economic transportation, except that, in prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the foregoing limitations in clauses (A) and (B), give reasonable preference to the carrier which originates the traffic.".

(c) The second sentence of section 10705 (b) of title 49, United States Code, is amended by striking "rail or water carrier" and substituting "rail carrier, motor carrier of property, or water carrier".

(d) Section 10705 of title 49, United States Code, is further amended by redesignating subsections (d), (e), and (f), and all cross references thereto, as subsections (e), (f), and (g), respectively, and by adding the following new subsection immediately after subsection (c):

"(d) All rail carriers, motor carriers of property, or water carriers party to a through route and joint rate whether established by such carriers under section 10703 of this title or prescribed by the Commission under this section shall promptly pay divisions or make interline settlements, as the case may be, with other carriers party to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.".

(e) The first sentence of section 10705(e) of title 49, United States Code, as so redesignated by this Act, is amended by striking "a rail or water common carrier tariff" and substituting "a tariff of a rail carrier, motor carrier of property, or water carrier".

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 20. Section 10928 of title 49, United States Code, is amended by—

(1) designating the existing section as subsection "(a)";

(2) inserting in subsection (a) (as redesignated by this Act) "of passengers" after "motor carrier" each time that term appears; and

(3) adding at the end thereof the following new subsections:

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to regulations of the Commission, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 180 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to regulations of the Commission, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area, if the Commission determines that due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days unless extended by the Commission for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 15 days after the application is filed with the Commission.".

PROCEDURAL REFORM

SEC. 21. (a) Section 10322 of title 49, United States Code, is amended by—

(1) amending paragraphs (a)(1) and (a)(2) as follows:

"(1) an exception to the initial decision is filed by an interested party during the 20-day period or by the end of an extended period if authorized by the Commission or a division; or

"(2) the Commission or a division stays or postpones the initial decision.".

(2) amending the last sentence of subsection (b) to read as follows: "If an initial decision is reviewed, it may be stayed or postponed pending final determination of the matter."; and

(3) adding at the end thereof the following new subsection:

"(c) If the proceeding involves an application for a motor carrier certificate or permit under subchapter II of chapter 109 of this title, the Commission shall take final action upon an application no later than 270 days after the application is filed with the Commission."

(b)(1) The last sentence of section 10323 (a) of title 49, United States Code, is amended to read as follows: "The Commission may limit the right to apply for rehearing, reargument, or reconsideration of a decision of the Commission or a division to a proceeding or class of proceedings involving issues of general transportation importance."

ENFORCEMENT

SEC. 22. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 11702(a)(4) of title 49, United States Code, is amended to read as follows:

"(4) through its own attorneys—

"(A) to enjoin a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title from violating this subtitle, or from violating an order issued, regulation prescribed, or certificate, permit, or license issued under this subtitle;

"(B) to compel a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to comply with this subtitle, or to comply with an order issued, regulation prescribed, or certificate, permit, or license issued under this subtitle;

"(C) to compel a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 to pay the civil penalties set out in chapter 119 of this subtitle; and

"(D) on behalf of a person to compel a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to provide that transportation or service to that person in compliance with this subtitle at the same rate charged or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person;".

(c) Section 1114 of title 18, United States Code, is amended by striking "Consumer Product Safety Commission." and substituting "Consumer Product Safety Commission and the Interstate Commerce Commission.".

COOPERATIVE AND SHIPPER ASSOCIATIONS

SEC. 23. (a) Section 10526 of title 49, United States Code, is amended—

(1) in subsection (a)(5) by striking the words "association, except" and all that follows and substituting "association, except as provided in subsection (c) of this section;"; and

(2) by adding a new subsection (c) to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and chapters 111, 117, and 119 of this subtitle, the Commission does not have jurisdiction under this subchapter over a motor vehicle controlled and operated by a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, which provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, for a nonmember.

"(2) The transportation provided by a cooperative association or federation under

paragraph (1) of this subsection (except for transportation otherwise exempt under this subchapter)—

"(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government—

"(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance;

"(ii) may not exceed in each fiscal year 35 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

"(iii) shall be provided only after the cooperative association or federation notifies the Commission of its intent to provide the transportation; and

"(B) for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year."

(b) Section 10562 of title 49, United States Code, is amended—

(1) by inserting "(a)" before "The Interstate Commerce Commission";

(2) in paragraph (2) by striking "household goods;" and substituting "household goods; or";

(3) by striking paragraph (3);

(4) by redesignating paragraph (4) as paragraph (3); and

(5) by adding at the end thereof the following new subsection:

"(b) Except as provided in chapters 111, 117, and 119 of this subtitle, the Commission does not have jurisdiction under this subchapter over the service of a shipper or a group of shippers in consolidating or distributing freight on a nonprofit basis, in order for the shipper or members of the group to secure carload, truckload, or other volume rates.".

(c) Section 11144(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may prescribe the form of records to be maintained by—

"(A) a cooperative association or federation of cooperative associations providing transportation subject to the jurisdiction of the Commission under section 10526(c) of this title; and

"(B) a shipper or group of shippers providing service subject to the jurisdiction of the Commission under section 10562(b) of this title to the extent such records are related to that transportation or service.

"(2) The Commission or any employee designated by the Commission, may on demand and display of proper credentials—

"(A) inspect and examine the lands, buildings, and equipment of such cooperative association or federation of cooperative associations, or such shipper or group of shippers; and

"(B) inspect and copy any record related to that transportation or service of such cooperative association or federation of cooperative associations, and such shipper or group of shippers.".

(d) Section 11145(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "; and" and substituting ";";

(2) in paragraph (2) by striking "services." and substituting "services; and "; and

(3) by adding at the end thereof a new paragraph to read as follows:

"(3) a cooperative association or federation of cooperative associations, providing transportation subject to the jurisdiction of the Commission under section 10526(c) of this title, and a shipper or group of shippers providing service subject to the jurisdiction of the Commission under section 10562(b) of this title, to file reports with the Commission containing answers to questions about that transportation or service."

(e) Section 11702(a) of title 49, United States Code, is amended—

(1) in paragraph (5) by striking "; and" and substituting ";";

(2) in paragraph (6) by striking "title." and substituting "title; and"; and

(3) by adding a new paragraph (7) to read as follows:

"(7) through its own attorneys—

"(A) to enjoin a cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title from violating this subtitle, or an order issued or regulation prescribed under this subtitle;

"(B) to compel a cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title to comply with this subtitle, or an order issued or regulation prescribed under this subtitle; and

"(C) to compel a cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title to pay the civil penalties set out in chapter 119 of this subtitle."

(f) Section 11901 of title 49, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following new subsection:

"(h) A person required to make a report to the Commission, answer a question, or maintain a record under this subtitle concerning transportation subject to the jurisdiction of the Commission under section 10526(c) of this title, or service subject to the jurisdiction of the Commission under section 10562(b) of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not maintain the record in the form and manner prescribed by the Commission, or (4) does not comply with section 10526(c) of this title, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues."; and

(3) in subsection (i)(2) by inserting "and (h)" after "(g)" and by amending subparagraph (A) to read as follows:

"(A) the motor carrier, broker, cooperative association or federation of cooperative associations, or the shipper or group of shippers has its principal office,".

(g) Section 11906 of title 49, United States Code, is amended by striking the words "motor carriers or brokers" and substituting "a motor carrier, broker, cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title.".

(h) Section 11909 of title 49, United States Code, is amended by adding at the end thereof a subsection to read as follows:

"(e) A person required to make a report to the Commission, answer a question, or maintain a record under this subtitle about transportation subject to the jurisdiction of the Commission under section 10526(c) of this title or service subject to the jurisdiction of the Commission under section 10562(b) of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully maintains a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.".

(i) Section 11914 of title 49, United States Code, is amended by adding at the end thereof a new subsection to read as follows:

"(e) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle, or a regulation or order prescribed under this subtitle, related to transportation subject to the jurisdiction of the Commission under section 10526(c) of this title, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.".

CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL OF A FREIGHT FORWARDER

SEC. 24. (a) Section 10741(c) of title 49, United States Code, is amended to read as follows:

"(c) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may not discriminate against a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter in favor of a carrier controlled by, or under common control with, such freight forwarder.".

(b) Section 10923(b)(3) of title 49, United States Code, is amended to read as follows:

"(3) The Commission may not deny any part of an application for a freight forwarder permit filed by a corporation controlled by, or under common control with a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title only because the service to be provided by the corporation will compete with service provided by another freight forwarder subject to subchapter IV of that chapter.".

(c)(1) Section 11323 of title 49, United States Code, is repealed.

(2) Item 11323 of the index to Chapter 113 of subtitle IV of title 49, United States Code, is amended to read as follows:

"11323. Repealed.".

(d) Section 11343 of title 49, United States Code, is amended—

(1) in subsection (a) by striking the words "or III" and substituting "III or IV"; and

(2) in subsection (d) by adding at the end thereof the following new paragraph:

"(3) A transaction referred to in subsection (a) or (b) of this section which involves a freight forwarder providing transportation subject to the jurisdiction of the Commission under subchapter IV or chapter 105 of this title and which is lawfully accomplished or effectuated prior to July 1, 1980 shall be deemed to be approved and authorized by the Commission."

(e) Section 11702(a)(2) of title 49, United States Code, is amended by striking "or 11323".

● Mr. PACKWOOD. Mr. President, I am pleased to join Chairman CANNON as co-

author in introducing the Motor Carrier Reform Act of 1980. More than 1 year ago, the Committee on Commerce, Science, and Transportation began its investigation of the existing motor carrier regulatory structure which is now in its 45th year. During the process of our hearing program, the committee heard testimony from more than 200 interested parties representing Congress, the administration, the motor carrier and railroad industry, consumer representatives, independent truck operators, representatives from the academic world, and concerned citizens. Near the end of the 1st session of the 96th Congress, Chairman CANNON and I stated that it was our intent to file a motor carrier reform bill by the end of January 1980. The legislation we are introducing today represents many hours of negotiations and consultations between majority and minority staff members and representatives from the administration, the motor carrier industry, and other interested parties.

Mr. President, as I have said many times before, this legislation is a long time in coming. The last 45 years of regulation have resulted in a substantial impasse to market entry, carrier growth, efficient utilization of equipment and energy resources, and anticompetitive pricing through rate bureau immunity from the antitrust laws. The motor carrier industry, as it exists today, is reputed to be one of the finest motor carrier networks in the world. I suggest that we must not be satisfied with the status quo. It is clear that our present motor carrier network can improve, can provide more responsive service to the small community and remote shippers, can provide pricing which is just as competitive as any other business in the private sector, and more importantly, it can have the flexibility to change as our economy changes and requires different transportation forms and services.

The bill we are introducing today does not travel the deregulation path as far as many would like. The bill provides for a substantial streamlining of many of the present regulatory restraints. Accordingly, the bill attempts to improve the present system through reform, rather than total deregulation. At this time, I would like to provide my colleagues with a general overview of what I consider are the major provisions of this legislation.

Motor carrier entry is clearly one of the issues in the legislation we are introducing today. The Interstate Commerce Commission, in recent months, has changed its attitude toward motor carrier entry and has been more progressive in its issuance of extensions of existing authority to carriers and issuance of certificates to new market entrants. However, although motor carrier entry has been eased somewhat, it is still difficult for a new entrant to receive operating authority. This legislation attempts to ease entry by reducing the difficult findings that the Commission is now required to make before a new certificate can be authorized. Under this legislation, a carrier must simply show that he is fit, willing, and able to provide the service applied for. Further, the burden of proof will rest on protestants, rather than the applicant, as it does today, to show that the requested authority is inconsistent with the public interest. This, in and of itself, is an important departure from the existing system. Further, a test for consistency with the public interest is not required when the market applied for is: First, not served by any motor carrier presently; second, has just suffered abandoned rail services; third, involves U.S. Government shipments; or fourth, involves packages weighing 100 pounds or less.

Another important digression from the existing regulatory structure is the requirement that all circuitous route restrictions be removed from all motor carrier certificates. Further, the bill requires that regulations be implemented within 6 months to enable carriers to: First, substantially broaden commodities which they are authorized to haul; second, begin to serve intermediate points on their certificates which they are now restricted from serving; and third, perform round-trip service when only one-way service is now authorized.

At present, our national motor carrier system has more than 100,000 motor carriers whose primary business is the movement of exempt agricultural commodities. Unfortunately, the agricultural exemption is narrowly defined to include only fresh fruits and vegetables. Section 6 of this legislation extends the agricultural exemption to include numerous other agricultural commodities, not necessarily limited to fresh produce. Further, independent owner-operators who have been deprived of the opportunity to maximize the use of their equipment will now be allowed to haul regulated commodities in conjunction with the movement of their exempt commodities. The only restriction is that the owner-operator is actually performing the transportation himself. This change from the existing agricultural exemption and restraints on the activities of owner-operators will certainly result in improved transportation efficiencies, lower carrier costs in the transportation of agricultural commodities, increased conservation of precious diesel fuel, and reduced costs of these commodities to the ultimate consumer.

At present, motor contract carriers are limited to service to eight shippers or less. It is clear that this segment of the trucking industry provides a valuable service to shippers. To put an arbitrary ceiling on their quantity of service is inconsistent with our new proposed transportation policy. Accordingly, contract carriers will be able to substantially increase the number of shippers that they may contract with. Another reform which is also long in coming is the elimination of the prohibition on intercorporate hauling. This legislation enables any company to secure the for-hire transportation services of any subsidiary for which it owns 51 percent or more of a controlling interest.

The last major area of concern I would now like to review is by far the most important, as well as the most controversial. At present, motor carriers set their transportation rates under the antitrust immunity umbrella which covers all discussions, proposals, and voting of rates in motor carrier rate bureau proceedings. This antitrust immunity has enabled a form of legalized price fixing. Testimony before our committee has clearly suggested that the system is anticompetitive and not in the public interest with regard to single-line movements—movements which can only be performed by one carrier. This legislation systematically removes the antitrust umbrella from discussions, proposals, and voting in rate bureau proceedings on matters related to single-line movements by July 1, 1983.

Mr. President, it is my contention that motor carriers should be able to decide what their costs are for a transportation movement from A to B. The rates charged by motor carriers should be different. They should reflect their differences in costs, labor, efficiencies and inefficiencies, geographical concerns, the differences in equipment, and the varying degrees of fuel costs. There is no reason that efficient carriers should be obliged to charge a rate in excess of what it would set independently. Further, it is unfair to efficient carriers that its inefficient competitors are privileged to set a rate above what the reasonable, efficient level for that particular carrier should be. It is not uncommon for a shipper to get an identical transportation rate quote from a dozen neighboring carriers to perform the same transportation between A and B. Removal of the antitrust immunity will enable the carriers to begin to compete on price, as well as quality of service.

To provide some immediate flexibility before 1983, the rate section in this legislation authorizes a zone of rate freedom for motor carriers in both single-line rates and joint rates. The carrier would be free to raise his rates 10 percent above or reduce them 10 percent below the level which the rate was 1 year prior to the point of reference. This will certainly provide immediate relief to shippers utilizing joint rates, both before and after 1983.

Mr. President, as you can see, the changes that we are proposing are a substantial digression from the existing regulatory constraints. I want to emphasize that I am proposing this bill not to break down the quality of service that we have today, but to improve upon a system where improvement is needed. It is expected that we will have 2 additional days of hearings on this legislation before Chairman CANNON and I present legislation to the full committee for its consideration. Chairman CANNON has stated several times that he intends to see that motor carrier reform legislation is on the President's desk by June 1, 1980. I intend to channel all my efforts to see that this is accomplished. I urge my colleagues to study this legislation closely in preparation for future floor action.●

By Mr. DOLE (for himself, Mrs. KASSEBAUM, and Mr. BOREN):

S. 2246. A bill to continue rail service by the Chicago, Rock Island, & Pacific Railroad for 90 days; to the Committee

on Commerce, Science, and Transportation.

ROCK ISLAND RAILROAD DIRECTED SERVICE

● Mr. DOLE. Mr. President, today I am introducing legislation to keep the Rock Island Railroad running. My bill would require the Interstate Commerce Commission to extend directed service over the Rock Island Railroad by the Kansas City terminal for an additional 90 days. Joining me in this effort are Senator KASSEBAUM and Senator BOREN.

The Rock Island Railroad is a critical component of the Great Plains economy. Thousands of communities and shippers depend upon the Rock to transport agricultural commodities and manufactured goods. Kansans, in particular, bring fertilizer into the State on the Rock Island, and ship record crops to market on the Rock Island. Many of these communities are not served by other railroads. The Rock Island Railroad is their lifeline.

Yesterday the Interstate Commerce Commission indicated that it will not extend directed service beyond the present March 2 deadline. I, and many other representatives of the Midwestern States served by the Rock Island, had asked the ICC to allow the Kansas City terminal to operate over this railroad for an additional 90 days, as allowed by law. We argued that this service was necessary to bridge the gap between Rock Island service and operation by healthy railroads now considering the purchase of portions of the Rock Island Railroad. Apparently, however, the Commissioners at 12th and Constitution do not perceive our need.

I have talked with representatives of a number of railroad companies who are seriously considering purchasing major segments of the dying Rock Island. They feel that these lines may be important to their development. However, it is highly unlikely that they will be able to complete all of the complex negotiations involved in a sale of this magnitude between February 1 and March 2. Thirty-one days simply is not enough time. When March 2 comes, and none of these purchase agreements are sealed, the Kansas City terminal will discontinue service on the Rock Island and begin the process of mothballing the locomotives. Shippers along the line will begin arranging for other means of transportation. Transportation and economic patterns will be disrupted. The process of transferring operation to purchasing railroads at a later date will be vastly complicated.

That is why I believe that directed service must be continued for another 90 days. The 3 months of service can act as a bridge between the past and the future, between the old owners and the new. It can prevent disruption and disarray, and ease a difficult transition in the lives of affected communities. The Kansas City terminal, which has been performing well in a tough situation, can best do this. The cost of this additional directed service will be offset by the savings in shutdown costs, which are estimated at $15 million, and the savings to the economies of the States of the Midwest. The alternatives are expensive.

For the good of communities throughout the Midwest and for the sake of a healthy, viable railroad system, I urge my colleagues to approve this legislation.●

ADDITIONAL COSPONSORS

S. 336

At the request of Mr. MATHIAS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 414

At the request of Mr. DOLE, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 414, a bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes.

S. 2166

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. PRESSLER) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2166, a bill to promote the development of Native American culture and art.

S. 2197

At the request of Mr. BAUCUS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2197, a bill to credit, for certain purposes, each employee of the Federal Government and each member of a uniformed service who was seized and held hostage by terrorist forces in Iran with 1 year of service in addition to all other periods of service to which such employee or member is entitled to be credited.

S. 2222

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 2222, a bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group or on behalf of an individual Indian whose land is held in trust or restricted status.

S. 2237

At the request of Mr. CHURCH, the Senator from Washington (Mr. JACKSON) and the Senator from Washington (Mr. MAGNUSON) were added as cosponsors of S. 2237, a bill to amend the Colorado River Basin Project Act to prohibit any Federal official from undertaking reconnaissance studies of any plan for the importation of water into the Colorado River Basin.

SENATE JOINT RESOLUTION 131

At the request of Mr. JAVITS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 131, a joint resolution designating April 10, 1980, as "ORT Centennial Day."

SENATE JOINT RESOLUTION 136

At the request of Mr. SASSER, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Joint Resolution 136, a joint resolution to designate the month of March 1980 as "Gospel Music Month."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. JEPSEN, the Senator from Idaho (Mr. MCCLURE) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. JEPSEN, the Senator from Idaho (Mr. MCCLURE) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

ARMED FORCES PERSONNEL MANAGEMENT ACT—H.R. 5168

AMENDMENT NO. 1647

(Ordered to be printed and to lie on the table.)

Mr. WARNER (for himself, Mr. NUNN, Mr. STENNIS, Mr. TOWER, Mr. CANNON, Mr. EXON, Mr. HUMPHREY, Mr. LEVIN, Mr. INOUYE, Mr. MORGAN, and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to H.R. 5168, an act to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of the following public hearings before the Select Committee on Indian Affairs:

A hearing is scheduled for February 5, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 1998, a bill to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.

A hearing is scheduled for February 26, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 2066, a bill to convey Federal land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development.

A hearing is scheduled for February 28, 1980, beginning at 10 a.m. in room 457, Russell Senate Office Building. Testimony is invited regarding S. 2223, a bill to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants.

A hearing is scheduled for March 6, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 1507, a bill relating to the settlement of certain claims and controversies involving the waters of the San Luis Rey River in San

Diego County, Calif., and to other matters.

For further information regarding the hearings you may wish to contact the Select Committee on Indian Affairs on extension 224–2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate next week on Tuesday, Wednesday, and Thursday, February 5, 6, and 7, to consider the Pakistan aid package.

Mr. TOWER. Mr. President, reserving the right to object—I do not object.

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

ADDITIONAL STATEMENTS

EXPRESSION OF THANKS TO CANADA

● Mr. BAUCUS. Mr. President, I submit for the RECORD a copy of a letter I have sent to the Canadian Ambassador to the United States expressing my personal thanks and appreciation for the courageous act of the Canadian Government in rescuing a number of American diplomats in Iran.

Since I am sure the sentiments reflect the sentiments of all Americans, I would like to make the letter a part of the official record.

The letter follows:

His EXCELLENCY PETER M. TOWE,
Embassy of Canada,
Washington, D.C.

DEAR MR. AMBASSADOR: The Canadian action in helping a number of Americans escape from possible illegal detainment by the Iranian extremists deserves the highest praise and commendation.

Throughout its history, Canada has stood for justice and legality in international proceedings. It is indeed a formidable reassertion of those ideals when your government risks what can only be difficulties for itself in Iran in defense of those principles.

The American people will remember this act of courage, and as a representative of the American people, I wish to express my heartfelt thanks and commendation to your government for its actions.

With best personal regards, I am
Sincerely,

MAX.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of February 1, 1980 is 222,206,613. This is an increase of 308,603 in the past month. It also represents an increase of 2,220,525 since February 1 of last year.

Over the past year, we have added enough additional people to more than fill Indianapolis, Ind., three times. And during the past month, our population has increased enough to more than fill Austin, Tex.●

CINCINNATI ENQUIRER SUPPORTS LEGISLATIVE VETO

● Mr. SCHMITT. Mr. President, the Cincinnati Enquirer recently published an excellent editorial in support of Senate action to pass a legislative veto amendment to the Federal Trade Commission (FTC). The Enquirer rightly points out that the Congress has delegated its constitutional power to create law to the FTC. Passage of a legislative veto by a vote of 321 to 63 in the House of Representatives is a clear signal to the American people that the Congress is ready to reassume its responsibility.

I want to state as vigorously as possible that the approval of a legislative veto amendment to the FTC authorization bill does not mean that the Congress is ready to abandon its goal of protecting consumers from unfair and deceptive trade practices. It does not mean the Congress will march to the tune of industry lobbyists whenever one group or another complains about a regulation and works to see it vetoed.

What passage of this amendment does mean is that the elected representatives of the people who are elected to pass judgment on the law of the land will do just that. We will no longer be able to pass the buck to the FTC—we will be held accountable. This may at times be uncomfortable, but the authors of the Constitution did not have our convenience in mind when they drafted that document. They wanted accountability and separation of powers. They wanted elected representatives to write the laws of the land.

The current authority of the FTC to draft, enforce and adjudicate laws called regulations does violence to our traditional view that only elected officials should write the law. The legislative veto is a reasonable legislative solution to this problem which will continue the delegation of authority to the FTC but will place a check on its abuse by allowing the Congress to review the final regulatory product.

Mr. President, I ask that the January 11 Cincinnati Enquirer editorial on the legislative veto be printed in full at this point.

The editorial follows:

FTC LOPSIDED VOTE SEEKS TO DENY IT SOME AUTHORITY

Congress and the nation have had it up to here with the federal regulatory bureaucracy—best epitomized perhaps by the Federal Trade Commission (FTC).

That explains why the House voted 321–63 late last year to reclaim some of the constitutional powers that an earlier Congress had delegated to the FTC (as well as to a host of other regulatory agencies).

What was before the House, specifically, was a proposal to permit either house of Congress to veto within 60 days any regulatory-commission ruling applicable to an entire industry. Unless the veto is overturned by the other house of Congress, under the proposal, it will remain vetoed.

House approval, of course, is only a first step. The Senate must concur, and President Carter must sign the authorization bill to which the FTC restraint was attached.

But the lopsided House vote has to be regarded as something of a turning point in the history of the entire regulatory movement—and, in particular, of the entire "consumer" movement.

The Constitution invests in Congress authority to regulate interstate commerce. Rather than occupying itself with all the questions that fall into that broad category of concerns, Congress created the FTC—along with similar regulators. They have acted over the years in Congress' name.

But the emergence of a class of professional consumers during the last decade has been a signal for such agencies at the FTC to run amok. If the FTC, under its hyperactivist chairman, Michael Pertschuck, had had its way, not a sparrow would have fallen to Earth anywhere in America without the FTC's sanction.

What the disconsolately stricken consumerists will be forgetting as they protest their betrayal is that the House is elected every two years by consumers—honest-to-goodness consumers as distinct from those who make their livings presuming to speak for the consuming public.

This, ultimately, is the public interest served.●

STATEMENT OF AIR CANADA ON THE INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

● Mr. CANNON. Mr. President, I would like to submit for the RECORD, the statement of Mr. Claude I. Taylor, president of Air Canada and also the current president of the International Air Transport Association which was offered in conjunction with the hearings held on S. 1300 on August 21 and 22, 1979.

The statement follows:

STATEMENT OF AIR CANADA

Mr. Chairman, Air Canada appreciates this opportunity to present its views on the proposed legislation, S. 1300, introduced by you and Senator Kassebaum on June 7, 1979.

Before doing so, it may be helpful to the Subcommittee for Air Canada to describe briefly its role in international air transportation. Air Canada is a North American airline with forty-two years of experience. It operates over a system of 87,191 unduplicated miles, serving sixty destinations in nineteen countries, including ten destinations in the United States. In 1978, it carried 11.3 million passengers who generated 12,017 million revenue passenger miles.

Air Canada is wholly owned by the Government of Canada and operates pursuant to the Air Canada Act (Chap. 5, 26 Eliz. II, Statutes of Canada). The company has not received subsidy for almost 20 years and in fact pays dividends to the Government of Canada. Although Air Canada is owned by the people of Canada and the Government of Canada is its sole shareholder, it is subject to all laws and government regulations governing airlines, and must conform with the rules and regulations of the Canadian Transport Commission, which is the licensing body and regulatory agent for all air transport in Canada. In all matters relating to safety of equipment and flight, airworthiness and maintenance standards, Air Canada's operations are regulated by the Air Transport Administration of the Canadian Ministry of Transport. Air Canada is a member of the Air Transport Association of America and of the International Air Transport Association. Canada has been a member of the International

Civil Aviation Organization ("ICAO") since the formation of that organization in 1946.

Air Canada recognizes that S. 1300 is legislation to amend existing United States law and that the Subcommittee is not required to receive Air Canada's views thereon; however, Air Canada thought it might be useful to the Subcommittee if its attention were called to certain sections of S. 1300 which may give rise to misinterpretations or result in conflicts potentially harmful to international aviation relations.

SECTION 2 OF S. 1300

This section proposes the deletion of section 102(c) of the Federal Aviation Act of 1958 (hereinafter referred to as the "Act"), and the revision of the present language of section 102(a) of the Act. The factors now enumerated in section 102(a) would be modified and, for the first time, extended to foreign air transportation as that term is defined in section 101(24) of the Act. As thus modified, revised section 102(a) would require the Civil Aeronautics Board ("Board") to consider as being in the public interest, prior to the authorization of new air services, a "full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted [by the Secretary of Transportation] under section 107 of this Act."

Inasmuch as the "public interest" is also the test applied by section 402(b) of the Act in determining whether to issue permits to foreign air carriers, the requirement that the Board receive and evaluate the recommendations of the Secretary of Transportation on the safety implications of new services would apply to the issuance of permits to foreign air carriers to engage in foreign air transportation. It appears therefore that Board examination of safety implications would be mandated even though provision had been made for the new services sought (by the issuance or amendment of a foreign air carrier permit) in an outstanding bilateral air transport agreement between the United States and the country of the applicant foreign air carrier.

You no doubt realize that Canada has its own safety regulations governing the certification, airworthiness, maintenance and operation of Canadian-registered aircraft, including airline aircraft, and it would seem important to avoid conflicts between the safety jurisdictions of the United States Secretary of Transportation and the aeronautical authorities of Canada. If there are safety problems to be resolved with respect to an international route involving the air carriers of two nations, it would appear that the ideal way to accomplish this would be in bilateral negotiations, prior to the exchange of route and operating rights. This suggested procedure would permit technical inputs from both the Secretary of Transportation and, in the case of Canada, the Canadian Air Transport Administration.

SECTIONS 2, 9, AND 23 OF S. 1300

These sections, by revisions to sections 102(a)(3), 102(a)(7) and 402(f) of the Act and the addition of a new section 2(b) to the International Air Transportation Fair Competitive Practices Act of 1974, would confer on the Board broad powers to determine what is discriminatory and non-competitive in the foreign air transportation field. They would also give the Board authority to take summary actions, including such drastic steps as the suspension, cancellation or revocation of foreign air carrier permits, subject to Presidential review. The potential for harm to international aviation relations by Board institution of proceedings in the exercise of this new authority, even though later aborted by the President, is considerable.

Section 23 of S. 1300 in its proposed new section 2(b) to the International Air Transportation Fair Competitive Practices Act would give the Board authority to judge the actions of sovereign governments—a foreign affairs function which more appropriately should be relegated to diplomatic consultations—and to punish the international air carriers of such governments for actions over which such carriers may have no control. For example, a regulation or requirement of a foreign country which applied equally, across-the-board, to its own carriers and carriers of all nationalities serving that country would nonetheless be declared discriminatory or anti-competitive by the Board insofar as it impinged upon United States carrier operations in that country. The Board might hold discriminatory or anti-competitive a law, regulation or practice of a foreign country which is in accord with the laws of, and consistent with the standards of that country, simply because the Board finds such law, regulation or practice inconsistent with its own views.

To vest the Board with the authority to institute proceedings which have as their objective the "transfer", cancellation or revocation of a foreign air carrier permit could result in confrontations with other nations and the disruption of international air transport services.

Before the Board is empowered to recommend any such drastic action to the President under section 801 of the Act, the Subcommittee may wish to consider addition to S. 1300 of a requirement that consultations first be held between the United States Department of State and the affected country.

SECTION 7 OF S. 1300

This section as drafted is subject to misinterpretation. As proposed, revised section 402(b) of the Act would permit the Board to issue permits to foreign air carriers when it finds that (1) the applicant is "qualified" and has been designated by its own government to perform such transportation pursuant to an agreement with the United States, or (2) such transportation will be in the public interest. Air Canada assumes that it is not the intent of the alternative language to empower the Board to issue permits to Canadian carriers, for example, which have not been designated by the Government of Canada to perform such air transportation, or to issue permits to Canadian carriers to perform air transportation services not covered by an air transport agreement between Canada and the United States. This ambiguity can undoubtedly be cleared up by slight revisions to the language of section 7 of S. 1300.

SECTION 10 OF S. 1300

Section 10 would amend section 407(a) of the Act to give the Board authority to require the filing, by foreign air carriers, or periodical and special reports in whatever form and manner the Board desires. The Board would also be authorized to require foreign air carriers to file copies of any contract, agreement, understanding or arrangement between such foreign air carrier and any other carrier or person in relation to any traffic "affected by the provisions" of the Act. The Board would be left free to interpret the term "affected by the provisions" as it wished. The scope of this proposed grant of authority is thus both extremely broad and imprecise.

Air Canada hopes that it is not the intent of section 10 of S. 1300 to give extraterritorial application and effect to United States law. Many countries have laws which control the furnishing of corporate and proprietary information on the demand of foreign governments or courts. Conversely, Canada does not at the present time require United States carriers holding licenses from Canada to provide special reports, copies of contracts or agreements, etc., of the nature apparently contemplated by the proposed amendment to section 407(a) of the Act.

Canada now cooperates with the United States in the exchange of certain origin and destination data on transborder air traffic; however, the agreement to do so was the subject of bilateral negotiations between Canada and the United States and is embodied in Article XIV(B) of the Air Transport Services Agreement between Canada and the United States signed January 17, 1966 (T.I.A.S. 5972). The information exchanged pursuant to Article XIV(B) is therefore guaranteed confidentiality by section 1102 of the Act.

Foreign governments are aware of the provisions of the United States Freedom of Information Act (FOIA), 5 U.S.C. 552. In various orders issued in response to FOIA requests for public disclosure of documents, data, exhibits, etc. on file with it, the Board has shown that it considers itself helpless, except in rare cases, to deny such requests. The Board's view of the restrictions placed on its discretion by the FOIA was expressed in its Order 78-8-126 issued in Docket 33277, as follows:

"Once the [United States] government comes into possession of information, however, it is obliged to live within the constraints of the FOIA."

The amendment to section 1104 of the Act proposed by section 19 of S. 1300 would not solve the problem presented to foreign governments and carriers because section 1104, as thus amended, would authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation *only* in those cases where "disclosure of such information *would prejudice the formulation and presentation of positions of the United States* in international negotiations." (Emphasis supplied)

Thus, there would be no protection from public disclosure, under the FOIA, of reports, documents, agreements, etc. received by the Board from foreign air carriers pursuant to the proposed amended section 407(a) of the Act.

Foreign governments are understandably sensitive about the public disclosure of corporate and proprietary documents and data to which they accord confidential treatment. Inasmuch as the information the Board seeks by amendment of section 407(a) of the Act falls within a sensitive area involving foreign relations, it is respectfully suggested that the question of what reports—special or otherwise, documents, studies or agreements should be supplied to the Board by foreign air carriers be left for resolution in bilateral negotiations. Information supplied as a result of such consultations would be protected from public disclosure under the FOIA by section 1102 of the Act.

Air Canada has no comment at this time on the remaining sections of S. 1300. Should, however, the Subcommittee determine to leave the record in this hearing open at the close of the August 22, 1979 session for the receipt of additional statements or views, Air Canada may be interested in supplementing this statement in the light of the record made in the August 21-22, 1979 hearings.

Needless to say, Air Canada will be happy to cooperate with you, Mr. Chairman, and the Subcommittee in the development of a complete record.●

CAMBODIA

● Mr. BAUCUS. Mr. President, just as the world has joined together in outrage and condemnation of the Soviet aggression in Afghanistan, so the world has joined together in its determination to help the starving people of Cambodia. It is unfortunate that a human tragedy in one part of the world—Afghanistan—overshadows an equally devastating tragedy in another—Cambodia.

But, although reports of progress in alleviating the famine in Cambodia are not on the front pages of our newspapers, progress is indeed occurring. Relief officials report that famine conditions no longer exist, although hunger and malnutrition still stalk the land. The distinction is small, perhaps, but it offers a glimmer of hope for the lives of several million Cambodians.

Most relief efforts will concentrate on distributing the aid that has already arrived in Cambodia. Although relief officials report that neither the Heng Samrin government nor the Vietnamese troops in Cambodia are deliberately blocking or diverting the distribution of food and supplies, it is certainly not one of their priorities. In addition, the road from Kompon Som to Phnom Penh remains under the strict control of Vietnamese forces and relief officials have no way to determine the extent to which food and medical supplies are being distributed to the starving Cambodian people.

Although meager, the recent December rice harvest has already helped to feed thousands of Cambodians. By late March, however, the Cambodian people will once again be totally dependent on outside aid. Clearly then, it is imperative that relief supplies already in Cambodia be distributed and more relief supplies continue as necessary.

To dramatize this concern, a truck convoy is scheduled to move from Bangkok to the Thai-Cambodian border on February 5. The trucks will carry food, medicine, and doctors, and will also be accompanied by a large number of prominent international figures like Liv Ullman, Alexander Ginsburg, and Elie Wiesel, chairman of the President's Committee on the Holocaust. The convoy will solicit permission from the Phnom Penh authorities to enter Cambodia to deliver supplies and medical aid to the Cambodian people. Although this request has been informally rejected by the Phnom Penh authorities, no direct communication has occurred and I am hopeful that misunderstandings can be cleared up and the convoy's supplies distributed. I would only add my own deep gratitude to the International Rescue Committee (IRC) and Medicins Sans Frontiers for their efforts to press forward with this worthy effort.

Also, the cities of Phnom Penh and Kompon Son are reviving, slowly but surely. More and more people are returning; schools and hospitals are reopening; and the smaller markets are back in business selling rice and other staples. There is a long way to go, of course, but the progress being made is encouraging, and in stark contrast to the devastation I witnessed only months ago.

The border situation is also changing. It is now estimated that as many as 1 million Cambodians are living on or near the border in U.N.-sponsored holding centers inside Thailand; in encampments along the border itself; or inside western Cambodia.

The situation along the border is tense, however. There have been reports of Vietnamese troop movements, and fighting in western Cambodia between Vietnamese forces and Cambodian forces loyal to Pol Pot. These reports of heavy fighting and increased tensions around the camps are serious and do not bode well for the future stability of Cambodia.

In conclusion, the human tragedy in Cambodia continues, although greatly alleviated due to the generous outpouring of contributions from the international community and from private citizens both at home and abroad. This massive international humanitarian effort is delivering large amounts of food and supplies to Cambodia and to the Thai-Cambodian border. There is enough assistance in the pipeline to avert the tragedy in Cambodia.

On the other hand, Cambodia faces an even more fundamental challenge in trying to pull its many warring factions together. I do not pretend to have an easy answer, but we must not lose sight of the political dimension of this tragedy.

We stand today at the threshold of another decade—the 1980's. Surely our wisdom, our strength, and our compassion will be challenged as never before.

We can meet those challenges—whether from an aggressive global challenger or a tiny, starving nation halfway around the world—if we realize that if only one group in human society is threatened, all of us are less secure.

Mr. President, I ask that an article by Bernard Gwertzman which appeared in the New York Times on January 31 be printed at this point in the RECORD.

The article follows:

A VIETNAMESE DRIVE ALONG THAI BORDER IS REPORTED BY U.S.—DANGER TO CAMBODIANS CITED—HEAVY FIGHTING BY HANOI'S TROOPS AND POL POT FORCES IS SAID TO RAISE TENSION IN CAMPS

(By Bernard Gwertzman)

WASHINGTON, January 30.—The State Department said today that heavy fighting was taking place between Vietnamese troops and Cambodian forces opposed to the Vietnamese-backed Phnom Penh regime in an area close to refugee camps straddling the border between Cambodia and Thailand.

Last Saturday, the United States expressed concern that the Vietnamese forces inside Cambodia were preparing to use force to disperse the Cambodian refugees in the camps, estimated at more than half a million, and push them deeper into Thailand. Since such attacks might lead to a crossing of Thailand's border by Vietnamese forces, the United States said it was particularly worried.

Hodding Carter 3d, the State Department spokesman, said there were "significant reports today about military actions on the outskirts of the refugee camps, attacks which have sharply increased tensions in the camps."

FIGHTING CALLED HEAVIEST OF YEAR

Other officials said that the fighting south and north of Poipet, on the border, was the heaviest of this year and involved thousands of Vietnamese troops. About 50,000 Vietnamese are believed to be in that area. But officials said it was too early to say whether a full-scale offensive had begun.

The main fighting was taking place around Phnom Melai, about 12 miles southwest of Poipet, and around Phnom Chat, more than 20 miles to the northeast, State Department officials said.

According to intelligence reports, the intensity of the fighting was heaviest around Phnom Melai. It involves combat between the Vietnamese regulars and forces loyal to Pol Pot, who headed the Cambodian Government before it was overthrown by Vietnamese forces earlier this year and supplanted by the pro-Hanoi Government of President Heng Samrin. One official said that clashes had gone on for four days.

ARTILLERY FIRE NEAR REFUGEE CAMP

But there was more concern here about the clashes near Phnom Chat because artillery fire was encroaching on a refugee camp at Non Samet, and some casualties were reported.

"There is considerable tension in the camps in the area," one State Department official said.

Mr. Carter said: "Our concern about the safety of large concentrations of civilians along the Thai border is deep and long-standing."

He declared that the Vietnamese seemed to want to gain "total control" of the region. "Any grouping is seen by them as a threat to their puppet rule," he said.

On Saturday, State Department officials hastily arranged a briefing to say that they had received reports of a possible Vietnamese military operation against the refugee camps on the Thai-Cambodian border.

One of the sources for the alarm was reportedly a high-level defector from the Heng Samrin Government who said that an attack was planned for the last days of January.

"This engagement is under way," Mr. Carter said today.

In its warning on Saturday, the United States said that "Vietnamese military activity in this area poses a potential threat to the security of Thailand."

"Any expansion would constitute a threat to the peace, security and stability of the entire region," the department said.

Today, Mr. Carter said that the statement had been issued to alert the "international community to the plight of these Khmer and to the threat posed to them by Vietnamese military operations in the area of the encampments."

The problem for American analysts is to separate the Vietnamese effort to crush the pro-Communist Pol Pot forces' resistance from the Vietnamese unhappiness with large groups of Cambodians, housed in camps on the border, who are generally anti-Communist.

At the moment, most of the fighting is directed against the Pol Pot forces. But because they are situated near refugee centers, there is a danger that the Vietnamese might end up attacking the camps, causing havoc among the refugees and increasing the problems for the Thai Government.

The camps are the beneficiaries of rice and other food donated by international groups and some of these relief supplies are making their way into Cambodia, much to the irritation of the Vietnamese and the Heng Samrin Government, which wants to control the flow.●

RUSSIA—AND WASHINGTON'S MATURITY

● Mr. STEVENSON. Mr. President, on January 16 in a speech to the International Trade Club of Chicago I questioned whether the President's economic sanctions against the Soviet Union would have any positive effects, and discussed adverse effects for the United States. Robert J. Samuelson made similar observations in an article which appeared in the Washington Post on January 29. And today one of the wisest of America's senior statesmen questions in the New York Times the maturity of official Washington. As I also pointed out, the United States has exercised its nonmilitary options and left itself, as George F. Kennan puts it, with a small stick while "thundering all

over the place." Though history is already confirming many of the opinions expressed in these pieces, the reasoning which leads up to them is worthy of some consideration by official Washington, and so, Mr. President, I ask that they be printed in the RECORD.

The material follows:

Remarks by Senator Stevenson, Chairman of the Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs, at a meeting of the International Trade Club, Chicago:

Russian imperialism did not begin in Afghanistan. It began 1,000 years ago. In our lifetime it could realize the dreams of the Czars for warm water ports—and ambitions, inconceivable in their days, for global supremacy based on effective control of world fuel supplies.

With a fictitious invitation and the pretext of American imperialism, the Russians invaded Afghanistan and destroyed that nation as a buffer zone. They may be preparing to extend their power by force through Pakistan and Iran to the Persian Gulf. The instabilities in the region, the apparent irresolve of the United States and the seeming futility of efforts to work cooperatively with the United States upon strategic arms limitations, peace in the Middle East and other enterprises may have tempted the Russians beyond forbearance and undermined whatever forces for moderation exist within the Politburo.

Six years ago the U.S. subsidized Soviet wheat purchasers. In one year during the heyday of detente the U.S. offered the Soviets about $1 billion in credits for the purchase of nonagricultural commodities. At Helsinki it offered the Soviets a Western imprimatur on Soviet domination of Eastern Europe in exchange for lip service to human rights. No sooner were credits extended than the game of "linkage" began. The Soviets were denied access to official credits and U.S. markets upon most favored nation terms because of their emigration policies. During the darkest days of Stalin's repressions the U.S. protested little. It protested strenuously the repression of human rights by the Soviet Union, as it began to respect them in the 1970s. Traumatized by Vietnam, the United States turned its back to the victims of Russian aggression in Angola—and invited more. Now American foreign policy is lurching away from East-West trade and President Carter's crusade for human rights and nuclear nonproliferation. The build-up of NATO forces in Western Europe yields to a renewed interest in rapid deployment forces, and we hear ominous reports of plans to mine the Persian Gulf. Russian imperialism is rediscovered. Its defeat is this year's moral equivalent of war.

The incoherence of U.S. policy in the 1970s dismayed friends and bewildered enemies. If the end of innocence is followed by overreaction to the Russian aggression against Afghanistan, the world will remain unimpressed, except by our continued ability to damage its security and our own welfare. The world will make its accommodations with the Soviet Union. Russian imperialism will continue its march, tempted by our decline, filling the cracks left by our default, unmoved by any prospect for the peaceful accommodation of conflicting interests by great powers.

American strategy toward the Russians would wisely move on parallel fronts. It would keep alive possibilities for political accommodation. It would also demonstrate that Russian aggression is expensive. It would offer incentives to responsible conduct, as well as disincentives to irresponsible conduct. The Russians are a minority in their restless empire. An arthritic economic system, a heavy arms burden, real and imagined threats from within and on all Russia's borders, a dark and bloody history create anxieties which require some understanding.

Our long-term objectives should include an effort to increase the world's supply of energy. Most fossil fuels lie outside the sedimentary basins of the Persian Gulf, the North American continent and Russia. They have not been explored and developed. We have capital and technology. Yet we perpetuate our dependence on undependable and expensive oil from the Middle East, ever undermining the efforts of the World Bank.

The U.S. should recognize that step by step diplomacy was doomed from the start and seek an overall settlement of the conflict in the Middle East based on the exchange of territories occupied by Israel for international recognition and guarantees of its peace and territorial integrity. Nothing has been so destabilizing and destructure of U.S. interests in the region, especially Iran, as the continuing Mideast War.

Our military power in South West Asia is limited by perceptions of the United States as a neo-colonialist power and an agent and architect of Israeli power. A similar perception of the Shah helped bring him down. No governments in the region, except Egypt, dare embrace American power or military assistance. And Egypt's influence in the Muslim world has been undermined by its association with Israel, the U.S. and a peace process which produces no peace and continues to neglect the Palestinian right of self-determination.

The events in South West Asia give us a lesson in the limits of U.S. military power in a resource hungry, interdependent and newly liberated world. Our sophisticated weapons are of little avail in the streets of Teheran or Kabul. They are not relevant to passions generated by the failures of modernization, the embittered revolution of rising expectations, ideas of Muhammed and Marx and dangerous men with access to the mass media. Supply lines are shorter for the Russians. Kabul is on the other side of the earth from the U.S.

Within the limits of its military power, the United States can establish power in the region and prepare for contingencies. It should acquire facilities for the supply of U.S. and friendly forces. Marines should be placed on U.S. naval vessels in the Indian Ocean.

Because overt U.S. military assistance is unwelcome in the region, the United States should organize an international effort to aid the rebel Afghans and the Pakistanis. That international effort should include nations from the region, as well as China and Western Europe. The situation offers the U.S. a chance to organize the world community against aggression—as it did not in Angola—and on the side of Islam. This aid effort must take into account India's sensibilities about Pakistan and the danger of Soviet retaliation. We should not overdo it. The aim should be to produce arms, supplies and, for Pakistan and Turkey, substantial assistance for their battered economies. Until international efforts along these lines are organized, other ways of supplying U.S. arms and supplies to the Afghans and Pakistanis must be utilized.

The capabilities of U.S. intelligence services should be strengthened. Greater efforts should be undertaken through the V.O.A. and other media—to reach the world's multitudes with the truth about our objectives and those of the Soviets. The U.N. and other platforms, the mass media included, should be utilized discreetly to build up resistance to Russian expansionism in the name of nationalism and nonalignment. Afghanistan gives us some opportunities to get off the defensive and align ourselves with the Third World.

Other measures are called for. But there are also limits to our economic power.

The United States has cut off cultural exchanges, cut off official credits, denied the Soviets MFN, and now embargoed sales of food and other commodities. Sales of technology with military potentials have been embargoed for years. The U.S. has abandoned the old policy of even-handedness in favor of accommodations with China. We have deferred action on the SALT treaty. We have done everything we can think of short of cutting off all trade and boycotting the Olympics. And those possibilities are under active consideration.

Little is left, short of military action, for the next time the United States is moved to make the Soviet Union pay a price for its transgressions. Soviet policies are more likely to be influenced constructively by mixed prospects for improved relations and Soviet economic development than by prospects for economic warfare, undiluted by possibilities for peaceful progress on any front. That which powers may be persuaded to do by old-fashioned and now neglected methods of quiet diplomacy can be made the more unlikely under threat when national pride is on the line. When the House of Representatives linked trade with the U.S. to free emigration from the U.S.S.R., emigration plummeted. During the pendency of SALT II, emigration increased. When it appeared dead, Russia invaded Afghanistan. They may conclude that they have little to lose by aggression—and much to gain.

The purpose of the embargoes is not to compel withdrawal of Russian troops from Afghanistan. The purpose is to signify that Russian adventurism in the world has a price. But we also pay a price with little prospect of influencing the Russians constructively.

The most immediate cost of the grain embargo for taxpayers is in excess of $2.5 billion to purchase grain destined for Russia. The longer term costs are much higher. Land set-asides may be reinstated, that is to say, payments to farmers for the nonproduction of corn. Large public expenditures for price supports and storage costs may also be necessary for some time. Russian livestock, if destroyed, would take years to replace. The movement toward a market determined farm price has been interrupted. The taxpayers could be required to support the farmer for a long time. The Federal expenditures are the smallest part of the cost.

Embargoes, like the freezing of Iranian assets, feed the general impression in the world that the United States is impulsive, unpredictable and an unreliable supplier of goods and services. Increasingly, nations come to the United States for the purchase of food and other goods and services only as a last resort. Russian managers with five year plans will not come back to the U.S. market at the risk of having their plans interrupted by embargoes. Eastern Europeans and other Russian allies will be pressured to avoid U.S. products. American companies, recognizing these facts of life, are already escaping the caprice of American policy by locating plants overseas. They can avoid embargoes by manufacturing with foreign sourced materials in foreign subsidiaries. Embargoes against exports of U.S. goods, therefore, produce exports of U.S. jobs and capital.

The embargoes will have an adverse effect on the U.S. balance of payments. The dollar is weakened by these actions. They may require taxes and Treasury borrowings to support the farmer and affected agribusiness for a long time. The federal deficit for fiscal '80 may be increased by 10 percent, causing higher interest rates than otherwise. If the farmers are to be protected, other industries adversely affected could similarly demand relief. The economic results for the United States are difficult to quantify. But they include more inflation, economic stagnation and unemployment. The burden falls heaviest on the American public in general—not the American farmer in particular. He has

mechanisms, and American politics, to protect him.

As for the Russians, they will liquidate some livestock and poultry and look for grain elsewhere. The immediate effect of the embargo is to place more meat on the Russian plate. The Russian consumer may not feel the effect of the grain embargo for a year. Longer term effects depend on weather in Russia and Eastern Europe and the success of Russian production efforts.

Our experience indicates that the Russians respond to embargoes by devoting resources to the development of their own capabilities. Deny them equipment for the production of industrial diamonds, for example, and they become the world's largest producer of industrial diamonds. They are already the world's largest oil producer. The denial of equipment for the production of oil would, if successful, reduce world oil production temporarily—which hurts the United States and all oil consumers. The Russians divert resources from lower economic priorities and redouble their efforts to produce whatever is denied them. What they cannot supply themselves, they buy from our competitors. With their gold and oil increased still higher in value by these actions, the Russians have hard currencies to spend. They are one of the world's best credits.

Embargoes of more high technology could hurt the Russian economy. Perhaps the Administration will identify such technologies which can be embargoed effectively without undue damage to our own economy. In general, embargoes are difficult to enforce. Even the COCOM system which has the support of our allies, has not always been effective as a means of controlling exports to the Soviet Union of high technology with military potentials. Wheat, corn and soy beans are not, like computers, easily identified by source of origin. Transshipments and substitutions of shipments are possible in violation of regulations and promises. Not all grain exporters will even promise compliance; some of them have been treated shabbily by the U.S. in recent years. The nonagricultural commodities embargoed, except spare parts, are virtually all available from competitor nations eager to produce, sell and pay the oil bill. They do not share the full extent of President Carter's moral indignation, or his conviction that embargoes are an effective means of bringing Russian imperialism to heel. They will give some lip service to our efforts and go on doing business with the Russians, picking up our business in the bargain.

The cost of the embargoes for the U.S. is high; their effect on the Soviet Union problematical. They put the United States on a slippery slope. Such actions as embargoes against the Soviet Union and the freeze of Iranian assets once taken are difficult to undo. They await some undivined sign from the Russians—but conciliatory signs are made the more difficult for Russia by the implication that it is yielding to pressure. If the U.S. were to lift embargoes without some such sign it could signal its concession to Russian intransigence. Embargoes, like the freezing of assets, are economic acts of war. This economic war will not be ended by Russian or American capitulation.

What counteractions the Russians will take to demonstrate their contempt for the embargoes, I cannot say—except that some will come. These could include the withdrawal of deposits from American banks, as well as the discontinuation of business with other U.S. firms in a general hardening of the line. The U.S., having deferred Senate action on SALT II, has freed the Russians to deploy missiles without limit and without restrictions on their ability to conceal them. The objects of our solicitude—the unfortunates seeking to emigrate from Russia—will pay for our actions. The Russians have already vetoed the resolution for sanctions against Iran by the United Nations. They could call for sacrifice at home, redouble their economic and military efforts and resume their march. Such hurt as is sustained by the people of the Soviet Union will be laid to American imperialism and produce more unity and resolve in the U.S.S.R. The U.S.–U.S.S.R. relationship will spiral downward without some unfamiliar acts of statesmanship on one side or the other to break the spiral.

No end is in sight. And we have played out almost all our nonmilitary string.

In the continuing competition between the U.S. and U.S.S.R. it would be wise to act with more predictability and respect for our own economic interests. It would be best if our actions were governed by some strategy and a clearer perception of Russian interests. That strategy should include an appropriate use of all our resources for our political purposes. In a contest for survival, one is not overly fastidious about the weapons. We should use them all—but not upon ourselves.

The United States has potentially more control over world food supplies than Saudi Arabia has over oil, but we have never moved to use that power effectively. Irrespective of Russian provocation, the United States should develop a food policy for an era of chronic poverty, hunger, malnutrition and political instability. The Administration's recent report on hunger suggests the magnitude of the suffering in store for the world and the challenge to the United States. The Russian invasion of Afghanistan offers an opportunity to adopt a food policy more promising than a combination of expensive price supports, intermittent embargoes and the stealthy purchase of U.S. grain on advantageous terms by hostile nations.

The free market has been an article of faith among farmers and in the Congress. The truth is that the market is not free. It is run by five or six multinational trading companies and their subsidiaries. Like the multinational oil companies, they buy and sell in the world to enhance their profit, not our national interest.

Other nations, both producers and consumers, lacking the luxury of large surpluses and internal markets have public agencies to manage the marketing of grain. Canada and Australia have wheat boards which are their exclusive exporters. The centrally planned economies have government purchasing commissions which are their exclusive importers, determining their needs and negotiating all purchases. An estimated 80 percent of U.S. wheat exports are purchased by state trading corporations. The U.S. which alone has the power to control world food supplies and prices has multinational trading companies—and embargoes.

We should consider giving the Commodity Credit Corporation exclusive authority to market U.S. wheat and feed grains in the world. We will continue to have the world's largest exportable surpluses. In this hungry and dangerous world the United States disarms itself uniquely and unilaterally by leaving the sale and distribution of American food to multinational traders and their foreign government customers. At least, the CCC should be the exclusive agent for grain sales to the Communist nations.

The CCC could have taken over the Russian grain stocks, scaled down the sales step by step, making it clear that the ultimate result could be an embargo. The policy could have been carried out, giving markets time to adjust and the Russians time to adjust to the carrot, as well as the stick. The President could have embargoed private grain sales and through the CCC retained control over grain sales to the U.S.S.R. This would have avoided the crisis which has damaged the U.S. economy and deprived us of an opportunity to use food to influence the Soviet Union. Profits on the sale of food to Russia might have been increased, even as we brought our political interests into play. This mechanism still offers a means of demonstrating rewards to be achieved by responsible behavior, at the same time the United States demonstrates that aggression has its price. The CCC with its newly acquired grain stocks could still be the mechanism for getting the U.S. back into the Russian market. The CCC must dispose of these stocks somehow. In the Russian market, now denied us, it can sell without depressing grain prices. It remains to be seen whether or when the Russians let us enter their market.

Until OPEC and Iran, farmers have generally resisted the use of grain as an instrument of foreign policy. While resenting their own impotence in the marketplace and the unfair practices of foreign governments, both competitors and customers, they were not convinced that a U.S. marketing agency would protect them. Suddenly with OPEC oil prices, the seizure of the American Embassy in Teheran and the invasion by Russia of Afghanistan, farmers have begun to see a future filled with embargoes. They may be persuaded now that CCC controlled grain sales to the Communist governments are in the farmers' interests and the nation's.

Russian imperialism has been on the march for many centuries. Under Communism the Russians perfected the police state and gave their totalitarian society and their design upon the world an ideological cover. Action by the United States to resist this imperialism is overdue. The real issue is over the kind of action. And the danger is that we will punish ourselves for Russian transgressions and overreact, harden the lines, and with like reactions on the other side, move towards world chaos, even war. There are possibilities for constructive action in these circumstances. But they require an unfamiliar statesmanship which presses restraint, as well as action.

POPULAR POLICY NOT ALWAYS GOOD POLICY

(By Robert J. Samuelson)

No one should be surprised at the popularity of President Carter's restrictions on grain and high-technology exports to the Soviet Union. Americans think they have taken a lot of abuse from foreigners in recent years, and they are enthusiastic about dishing some out in return. But we should not confuse popular policy with good policy. You do not stop tanks with grain, and the ruthless pursuit of economic sanctions against the Soviets is a policy with inherent limits and dangers.

At worst, it may undermine America's international political and economic power by straining relations with its allies, disrupting world grain markets and diverting attention from the more fundamental military nature of the Soviet threat. Unless carefully understood, a policy intended to make us stronger may have the opposite effect.

For years, we have had simplistic ideas about the roles of economic and military power. We believed that increasing trade with the Soviet Union constituted a subtle form of disarmament. Greater interdependence would lead both sides to reduce relative military spending. We did, but they didn't. Consequently, the Soviets devote about twice as much of their national output to defense (11 to 13 percent) as the United States.

If we now believe that trade restrictions will significantly weaken the Soviets, we risk making the same mistake in reverse. With a litle bit of luck—good for us, bad for them—we can cause conspicuous inconvenience, but not much more. Even in grain, the Soviets depend on import for only 5 to 15 percent of their consumption. In high-technology areas, machinery imports constitute only a small proportion (1 to 3 percent) of annual Soviet investment that exceeds $300 billion. And the United States ranked only fifth as

a supplier of high-technology goods in 1977, according to a recent Commerce Department study.

It's true that the Soviets face enormous economic problems in the 1980s. Oil production may soon peak, if it hasn't already, and there will be staggering strains in Soviet labor markets.

But none of this means that any economic hurt we inflict on the Soviets advances our interests. In the evolving struggle for Middle East oil, those interests are simple: to keep the oil flowing; to keep Soviets out; to make the Persian Gulf nations more receptive to American than Soviet protection; and, if worse comes to worse, to assure that our traditional alliances with Europe and Japan remain as cohesive as possible.

Indiscriminate economic warfare against the Soviets does not necessarily serve these interests. The one high-technology area where we might hurt the Soviets most is the one in which—in our own interests, not theirs—we ought to want to hurt them the least: oil exploration and production equipment. The more Soviet oil production declines, the more attractive Mideast oil supplies become and, incidentally, the more pressure builds for further price increases, which weaken Western alliances.

The damage the United States can do to Soviet food supplies is more immediate, but probably not sustainable. Even if the Soviets can't quickly make up all the lost U.S. grain sales, no respectable food analyst believes the impact on meat supplies (most grain is used as animal feed) will exceed the effect of the disastrous 1975–76 Soviet grain harvest, the worst in years. The Soviets then slaughtered large numbers of hogs and poultry, and, after feeding these animals to the public, imposed meatless Thursdays. In 1976, per capita meat consumption dropped 10 percent.

But keeping the Soviets permanently away from world grain supplies will be difficult. Although the United States is the largest exporter (accounting for 50 to 60 percent of the world total), there are numerous others, and shipments through third countries are not uncommon. Any long-term effort to block sales to the Soviets would probably result in a shuffle of customers and suppliers; the Soviets would pay slight premiums for grain, separating traditional suppliers and buyers. The latter would come to the United States. Already, the Soviets are believed to have offset some loss of U.S. grain with purchases from Argentina.

The simplest way to frustrate this process would be to hold large amounts of grain off the world market, but the cost to the United States would be great. Grain prices would rise, causing inevitable and understandable outrage among our principal allies, Europe and Japan, who are also our biggest customers. Keeping U.S. farmers happy would cost the Treasury additional billions of dollars for high price supports, acreage set-aside or other subsidies; billions that would probably be better spent producing guns rather than not producing grain.

Limiting exports to the Soviet Union may satisfy a gut instinct against trading with your "enemy," but we shouldn't regard—as we have—such trade restrictions as a substitute for military spending. By the combination of a strong military and liberal trade policies, we ought to be encouraging the Soviets to use trade, not force, to solve their problems at home.

Looming manpower shifts, for example, will increase Soviet need for the productivity inherent in Western industrial technology. For most of the postwar period, Soviet economic growth depended heavily on putting more people to work: 2.3 million on average during the 1970s. In the 1980s, the increase will average only 550,000, according to Census Bureau demographer Murray Feshbach. More disturbing to the Soviets, the entire increase will occur among the low-skilled Moslem population of Central Asia.

With these new problems added to the old—a large defense sector that siphons away the best managerial and technical talent, confusing "incentives" for factories and inefficient farming—you can understand why the commissars worry about the 1980s. Soviet meat consumption is still half America's, and at least one-fourth of urban families share living quarters.

Peace is in our interest, too, and if the Soviets find that their economic and political frustrations are best relieved by adventurism abroad, that supreme interest will suffer. If we had—which we do not—the capacity to project a credible military presence in the Persian Gulf, we would not be so worried about Afghanistan In current circumstances, curtailing exports to the Soviet Union may have been the "signal" we could send. If their 1980 harvest is poor, it may pinch. But it is a stopgap, not a policy, and it may boomerang.

GEORGE F. KENNAN, ON WASHINGTON'S REACTION TO THE AFGHAN CRISIS: "WAS THIS REALLY MATURE STATEMANSHIP?"

PRINCETON, N.J.—On Christmas Day 1979, after more than a century of periodic involvement with the internal affairs of its turbulent neighbor, and after many months of futile effort to find a pro-Soviet Afghan figure capable of running the country, the Soviet Government suddenly expanded what was already a sizeable military involvement in Afghanistan into a full-fledged occupation, promising that the troops would leave when their limited mission had been accomplished.

This move was not only abrupt—no effort had been made to prepare world opinion for it—but it was executed with incredible political clumsiness. The pretext offered was an insult to the intelligence of even the most credulous of Moscow's followers. The world community was left with no alternative but to condemn the operation in the strongest terms, and it has done so.

So bizarre was the Soviet action that one is moved to wonder whence exactly, in the closely shielded recesses of Soviet policy making, came the inspiration for it and the political influence to achieve its approval. It was a move decidedly not in character for either Aleksei N. Kosygin or Leonid I. Brezhnev. (The one was, of course, ill and removed from active work. The limitations on the other's health and powers of attention are well-known.) Andrei A. Gromyko, too, is unlikely to have approved it. These reflections suggest the recent breakthrough, to positions of dominant influence, of hard-line elements much less concerned for world opinion, but also much less experienced, than these older figures.

Such a change was not unexpected by the more attentive Kremlinologists, particularly in the light of the recent deterioration of Soviet-American relations, but it was assumed that it would take place only in connection with, and coincidental with, the retirement of Mr. Brezhnev and other older Politburo members. That it could occur with the preservation of Mr. Brezhnev as a figurehead was not foreseen.

Be that as it may, this ill-considered move was bound to be unacceptable to the world community, and the United States had no alternative but to join in the condemnation of it in the United Nations. But beyond that point, the American official reaction has revealed a disquieting lack of balance, both in the analysis of the problem and then, not surprisingly, in the response to it.

In the official American interpretation of what occurred in Afghanistan, no serious account appears to have been taken of such specific factors as geographic proximity, ethnic affinity of peoples on both sides of the border, and political instability in what is, after all, a border country of the Soviet Union. Now, specific factors of this nature, all suggesting defensive rather than offensive impulses, may not have been all there was to Soviet motivation, nor would they have sufficed to justify the action; but they were relevant to it and should have been given their due in any realistic appraisal of it.

Instead of this, the American view of the Soviet action appears to have run overwhelmingly to the assumption that it was a prelude to aggressive military moves against various countries and regions farther afield. No one can guarantee, of course, that one or another such move will not take place. A war atmosphere has been created. Discussion in Washington has been dominated by talk of American military responses—of the acquisition of bases and facilities, of the creation of a rapid-deployment force, of the cultivation of military ties with other countries all along Russia's sensitive southern border. In these circumstances, anything can happen. But the fact is, this extravagant view of Soviet motivation rests, to date, exclusively on our own assumptions. I am not aware of any substantiation of it in anything the Soviet leaders themselves have said or done. On the contrary, Mr. Brezhnev has specifically, publically and vigorously denied any such intentions.

In the light of these assumptions we have been prodigal with strident public warnings to the Russians, some of them issued even prior to the occupation of Afghanistan, not to attack this place or that, assuring them that if they did so, we would respond by military means. Can this really be sound procedure? Warnings of this nature are implicit accusations as well as commitments. We are speaking here of a neighboring area of the Soviet Union, not of the United States. Aside from the question of whether we could really back up these pronouncements if our hand were to be called, is it really wise—is it not in fact a practice pregnant with possibilities for resentment and for misreading of signals—to go warning people publicly not to do things they have never evinced any intention of doing?

This distortion in our assessment of the Soviet motivation has affected, not unnaturally, our view of other factors in the Middle Eastern situation. What else but a serious lack of balance could explain our readiness to forget, in the case of Pakistan, the insecurity of the present Government, its recent callous jeopardizing of the lives of our embassy personnel, its lack of candor about its nuclear programs—and then to invite humiliation by pressing upon it offers of military aid that elicited only insult and contempt? What else could explain, in the case of Iran, our sudden readiness—if only the hostages were released—to forget not only their sufferings but all the flag-burnings, the threatening fists, the hate-ridden faces and the cries of "death to Carter," and to offer to take these very people to our bosoms in a common resistance to Soviet aggressiveness? What else could explain our naive hope that the Arab states could be induced, just by the shock of Afghanistan, to forget their differences with Israel and to join us in an effort to contain the supposedly power-mad Russians?

This last merits a special word. I have already referred to the war atmosphere in Washington. Never since World War II has there been so far-reaching a militarization of thought and discourse in the capital. An unsuspecting stranger, plunged into its midst, could only conclude that the last hope of peaceful, nonmilitary solutions had been exhausted—that from now on only weapons, however used, could count.

These words are not meant to express opposition to a prompt and effective strengthening of our military capabilities relevant to the Middle East. If what was involved here was the carrying of a big stick while speaking softly rather than the carrying of a relatively small stick while thundering all over the place, who could object? But do we not,

by this preoccupation with a Soviet military threat the reality of which remains to be proved run the risk of forgetting that the greatest real threats to our security in that region remain what they have been all along: our self-created dependence on Arab oil and our involvement in a wholly unstable Israeli-Arab relationship, neither of which is susceptible of correction by purely military means, and in neither of which is the Soviet Union the major factor?

If the Persian Gulf is really vital to our security, it is surely we who, by our unrestrained greed for oil, have made it so. Would it not be better to set about to eliminate, by a really serious and determined effort, a dependence that ought never have been allowed to arise, than to try to shore up by military means, in a highly unfavorable region, the unsound position into which the dependence has led us? Military force might conceivably become necessary as a supplement to such an effort; it could never be an adequate substitute for it.

The oddest expression of this lack of balance is perhaps in the bilateral measures with which we conceive ourselves to have punished the Russian action. Aside from the fact that it is an open question whom we punished most by these measures—Russia or ourselves—we have portrayed them as illustrations of what could happen to Moscow if it proceeded to one or another of the further aggressive acts we credit it with plotting. But that is precisely what these measures are not; for they represent cards that have already been played and cannot be played twice. There was never any reason to suppose that the Soviet Government, its prestige once engaged, could be brought by open pressure of this nature to withdraw its troops from Afghanistan. But this means, then, that we have expended—for what was really a hopeless purpose—all the important nonmilitary cards we conceived ourselves as holding in our hand. Barring a resort to war, the Soviet Government has already absorbed the worst of what we have to offer, and has nothing further to fear from us. Was this really mature statesmanship on our part?

We are now in the danger zone. I can think of no instance in modern history where such a breakdown of political communication and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict. The danger is heightened by the fact that we do not know, at this time, with whom we really have to deal at the Soviet end. If there was ever a time for realism, prudence and restraint in American statesmanship, it is this one. Nothing in the passions of electoral politics could serve as the slightest excuse for ignoring this necessity.●

THE DEATH OF FORMER LOUISIANA COMMISSIONER OF ELECTIONS DOUGLAS FOWLER, SR.

● Mr. LONG. Mr. President, I regret to inform this body of the death of Douglas Fowler, Sr., who until just last month was the dean of Louisiana's State elected officials.

Mr. Fowler resigned his important post as Louisiana commissioner of elections last month even though his term of office did not expire until this spring. Mr. Fowler's age and ill health prompted him to step down from the post he had held since 1959. But there was some joy in his resignation.

Just months earlier, Douglas Fowler's son had been elected by the people of Louisiana to succeed his father as commissioner of elections. So, Mr. President, Doug Fowler was able to turn the reins of office over to his own son.

Doug Fowler was a warm and friendly man who was beloved by most who knew him. I knew him since I was a young man and always considered him a true friend and adviser.

Few people can claim to have served their State harder, more faithfully and for a longer period than Doug Fowler. As commissioner of elections, he was an exemplary State official who won reelection time after time. His political career began in 1940 when he ran for clerk of court of his native Red River Parish. He was later elected mayor of Coushatta.

Mr. Fowler was a close friend and political friend.

He came from an era in Louisiana politics when public officials were able to maintain personal contact with many of their constitutents, and Doug Fowler made it a point to keep up this tradition until the day he died.

He will be missed by me and by all of those who knew him.

Mr. President, I submit for the RECORD an article that appeared in the Baton Rouge Sunday Advocate on July 15, 1979, upon Mr. Fowler's announcement that he would not seek reelection.

The article follows:

FOWLER HAD "HIS DAY," MOVING ON

By Rafael Bermudez

"You have your day and you move on. I've decided to hang them up."

With those words, Douglas Fowler said last week he won't seek re-election as state elections commissioner, a post he held in one form or other for 20 years. His term ends in March 1980.

Fowler's bowing out of active politics will just about bring to a close an era of colorful and fiery politics in Louisiana.

Fowler, 72, was a protege of the late Earl Long and learned his distinctive brand of politics from the man whom he still refers to as "Mr. Earl."

He and Treasurer Mary Evelyn Parker are the only remaining statewide officeholders who date back to the Long eras.

Fowler made it through 40 years of Louisiana politics without ever being involved in a major scandal—a feat itself. The only blot on his record came in 1977 when the legislative auditor uncovered $5,228.87 in travel expenses claimed by Fowler for trips that were not related to his official duties. Fowler paid the money back.

Fowler is the last of the old campaigners who gave Louisiana its colorful political image. In the 1920s through the early 1950s, politics in the state was an art form of its own where candidates traveled from town to town making fiery speeches that stirred the crowds.

Those were the days before television and expressways, a time when farmers and small town dwellers had little to entertain them. Arrival of a candidate for governor of the state was a major event and folks turned out by the hundreds.

Of course, the prospect of being given a free ham, turkey or watermelon by the candidate helped.

Fowler says campaigning nowadays—with its multi-million-dollar budgets and heavy use of the electronic media—just isn't the same.

"We've lost touch with the people. We don't know what our people want. You just can't get on TV and talk to a man. You talk, but while you're talking, he's gone to the refrigerator to get a sandwich or something. I think we've lost a lot," says Fowler.

Fowler lost only one election in his long political career. That was in 1952 when he ran for comptroller on a gubernatorial ticket headed by the late Hale Boggs.

He started in politics in 1940 when he ran for clerk of court of his native Red River Parish. He was later elected mayor of Coushatta. Fowler's first involvement in state politics came in 1956 when he was appointed director of the State Board of Registration by Earl Long. In 1960 he became the first elected state custodian of voting machines and has been re-elected ever since. The name of the post was changed to commissioner of elections by the 1974 Constitution.

The voting machine custodian's duties had earlier been handled as part of the secretary of state's job. However, a political falling out between Long and former Secretary of State Wade O. Martin led to creation of the office of voting machines custodian in 1956. It was changed four years later to an elected position.

"Mr. Earl said, 'Hell! Let's make it an elective office and if they don't like the guy they can throw him out.'"

Fowler says his decision not to seek re-election was based on doctor's orders. Fowler suffers from emphysema. He said he will campaign in favor of his son, Jerry, who will try to succeed him as commissioner of elections. The only other candidate in the race to date is Jerre T. Hurst of Columbia.

Fowler says his only hobby is politics. So he'll remain active in it one way or other as long as he can.

"I think the roots Earl Long planted are still out there. They're getting thin because all of us are getting older. The young people don't know what it's like to campaign like we used to. You'd touch the people. They got an opportunity to express themselves."●

THE ADMINISTRATION'S BUDGET

● Mr. BAUCUS. Mr. President, we have now had several days to examine the administration's proposed budget. I would like to take just a few moments to discuss this budget and its implications for our constituents.

I believe the President has made a sincere effort to control spending. He proposes to keep real spending at the same level as last year and to reduce the deficit to $15.8 billion, the lowest level since 1974. The President proposes only one new major spending program, to expend educational opportunities for disadvantaged youth.

The bad news about the administration budget is its terrible impact on American taxpayers. Federal spending and taxes, as a percentage of the gross national product, will reach their highest level since World War II. Government spending under the proposed budget will reach 22.3 percent of the gross national product. Taxes will be 21.7 percent of the GNP, up from 18.5 percent in 1976.

This budget is, in simplest terms, unacceptable. It will be up to the Congress to reduce spending levels. Our goal should be to balance the budget this year.

And we should not stop there. It is imperative that we take control of spending in order to provide meaningful tax relief for our constituents.

This goal is not impossible. But it will require a sincere effort and discipline by Congress and the public.

INFLATION

I agree with the President that inflation continues to be our most serious domestic problem. Our highest budget priority must be reducing inflation.

Prices rose 13.3 percent in 1979, and there is no relief in sight. As a result, the purchasing power of the average American worker dropped 4.5 percent last year. At the same time, tax burdens increased as inflation pushed individuals into higher tax brackets.

Some causes of inflation—like OPEC price increases—cannot be avoided. But one of the reasons we have inflation is that Americans expect prices to go higher.

The Federal Government must take the lead to abolish this "inflation mentality." This will require tough fiscal policy.

THE BUDGET PROCESS

We need to begin by improving the process by which the administration and the Congress develop the budget.

We need more safeguards to insure that spending and taxes are kept within reasonable levels and that our budget is balanced. I have cosponsored legislation that would take a major step in this direction.

Along with Senator BAYH and others, I have cosponsored the Spending and Tax Limitation Act of 1979 (S. 2132) which would require the administration and the House and Senate Budget Committees to submit budgets each year with neither spending nor taxation exceeding 20 percent of the GNP.

If the legislation we are proposing was in effect today, Federal spending would be reduced by $64 million.

CONGRESSIONAL OVERSIGHT

No businessman becomes successful by allowing fraud, waste, and mismanagement in his operation. It is just commonsense that the Government ought to be operated on the same principle.

Congress must become more diligent in its efforts to identify waste, inefficient programs, and fraud. There is an enormous amount of fat in the Federal budget that can be trimmed by responsible congressional oversight.

I would like to mention just two of many examples of waste and fraud which have recently been identified by my Subcommittee on Contracted and Delegated Authority.

Based on questions raised by the subcommittee, the General Services Administration has canceled plans to give the C. & P. Telephone Co. a $300 million sole-source contract to change the Federal Government's phone system. That single action, in my judgment, saves U.S. taxpayers millions upon millions of dollars.

Another example involves a water project in Montana. When local residents raised serious questions about the benefits and costs of a planned reregulating facility on the Kootenai River near Libby, Montana—and the Corps of Engineers refused to reexamine the plan in detail—I asked the General Accounting Office to do a comprehensive cost-benefit analysis.

The GAO estimated that this project had a benefit-cost ratio of only 0.6. That means that for every dollar spent, only 60 cents would be returned to the taxpayer. The project cost of $0.3 billion simply cannot be justified. Based on the GAO report, I am requesting the delay of all funding for the reregulating project.

As members of the Senate, we can all be more diligent in our examination of Federal spending. Collectively, we need to enact legislation to improve our oversight capability.

Since I came to Congress in 1974, I have been pushing for enactment of comprehensive legislation to make sure all Federal programs are periodically reviewed by Congress.

Of over 1,200 Federal spending programs which have been identified by the General Accounting Office, over 800 are permanently authorized. That means that they never come up for review or reconsideration by the Congress.

My Legislative Oversight Act (S. 1304) would require Congress to establish specific objectives and expected annual accomplishments of any new spending program. Agencies would be required to report annually on their progress toward meeting the objectives.

This approach would give Congress solid guidelines to use in deciding whether to continue paying for programs. It would provide a quick means of separating programs that are really achieving their goals from those that simply drain the Federal Treasury.

We have talked about concepts of "sunrise" and "sunset" for a long time. It is time to enact the Legislative Oversight Act.

SUMMARY

The American public has amply demonstrated its disenchantment with big government, big taxes, and big spending. There are responsible ways to reduce these burdens. The proposals I have recommended—the Spending and Tax Limitation Act and the Legislative Oversight Act—should be major priorities of the Senate in 1980.●

WHAT HAPPENS IF OUR BLUFF IS CALLED?

● Mr. DOLE. Mr. President, a former Secretary of Defense, Mr. Clark Clifford is presently on an official mission to India, to reassure the new government about American intentions in the Persian Gulf region. Mr. Clifford told the Indians, that the United States would go to war if Russia makes any further move toward the Persian Gulf.

The Senator from Kansas is not an expert on gambling, but it just seems to me that Americans should be wondering right now, "what do you do in a high-stakes poker game when you are only holding deuces and the other side decides to call your bluff?" It looks as if the United States is pretty close to that position now. Yesterday, Mr. Carter's Secretary of Defense, testifying before Members of Congress, implied that the outcome of any war we would fight in the Persian Gulf would be highly doubtful, and that our position is so precarious that even to talk about whether or not we could win is very dangerous and harmful to our chances.

A 3-YEAR WARNING

Mr. President, these are sad times for America when our President and his closest advisers suddenly find out what the realities of the world are, after 3 years of cutting back funds and programs for our national defense. After the 1976 Vice Presidential debates there was a liberal assault on me for even suggesting that unpreparedness could lead to war. What happens when you are right, as President Ford and the Republicans have been right, and for 3 years you can not do anything about it except to try and sound the alarm.

Well now Mr. Carter has finally awakened to the dangers facing our country. But the Soviets were not "testing him" and his leadership of this Nation when they invaded Afghanistan. They had already tested him and he had failed. That is why they thought—or rather knew—they could get away with it. Last summer the President said the presence of Soviet combat troops in Cuba was "unacceptable." He told that to the American people and to the Soviet leadership. Yet, what did he do about it? Nothing. The Soviet Union not only called his bluff, they laughed at it. They knew what has been happening in this country under this administration: A long history of withdrawal, retreat, and indecisiveness.

FAILING THE TEST

They know that Jimmy Carter—far from the picture he tried to paint in his state of the Union message speech—has done more to disarm this country than any President in this century since Harding's Washington Naval Conference 60 years ago. In the last 3 years President Carter has cut the defense budget President Ford projected through the 1983 period, by over $57 billion. Carter slashed the strategic budget by $24 billion, cut the fund for general purpose forces by $25 billion, and reduced our vital, long-term research and development fund by $10 billion.

In terms of specific programs, the administration has canceled the B–1 program, cut back Trident submarine procurement and delaying its deployment by 2 years, canceled the neutron bomb which would have added to the security of our NATO flank, and delayed the MX program by up to 5 years.

Furthermore, all our foreign policy signals to the Russians have been negative. We hear a litany of foreign policy failures from the time Carter canceled our overflights over Cuba. President Carter pledged to retreat from our world responsibilities, in Panama, by giving away the canal; in Taiwan, by canceling our mutual defense treaty; in South Korea and the Philippines, by reducing our troops stationed there. He failed to challenge Russian and Cuban-proxy aggression in Africa. He sought restraint in our dealings with North Vietnam and Cuba. He failed to support the Shah of Iran and may have directly contributed to the fall of his government. And 20 months ago he failed to make any protest when the Communists first seized power in a previously neutral Afghanistan.

Now the President, fighting for reelection, takes a tough tone, but we are left with empty threats without substance. Does anyone really think that by reinstating registration, a process that will take over 6 months, that we can deter Soviet aggression? Or by suddenly revamping or removing congressional checks on the CIA we can prevent future

Afghanistans? On the contrary, we knew about the Iranian situation. We knew about Soviet troops massing on Afghanistan's borders. President Carter cut off aid to Pakistan because they were responding to a nuclear threat from India that we did nothing to protect them from. Strategically we are isolated in the Persian Gulf. What has the President done over the past 3 years to prepare for a crisis such as this?

We can do precious little. What if a Brezhnev doctrine were to come about instead of this Carter "doctrine." The Soviets could offer to "defend" OPEC states against what they call a U.S. imperialism. A Soviet offer would certainly bear more credibility in terms of true strength than a U.S. offer, a brinkmanship that risks our national security by a war we are no longer prepared for.

The administration is engaged in a series of calculated blustering aimed at threatening Russia. We have announced in advance that we will take bold military moves when in fact we cannot or will not do so. This is playing a very dangerous game.

UNANSWERED QUESTIONS, UNRESOLVED PROBLEMS

There are many questions that remain unanswered by the President's speech. He claimed many things the other night when he promised to protect by military force the "Persian Gulf region." But what specifically did he mean? What countries or areas are specifically included in that region? What kind of threats and how much force will the United States respond to? Does he mean only Russian troop invasions or the insurrections led by native Communist parties? What does he consider "an attempt to gain control of the Persian Gulf" to mean? Does the President plan—as he should—more specific programs to counter the Soviet buildup? Does the United States have any support from other countries in the region, and if so how much? Will they accept a U.S. military presence or not? Will our allies, particularly those dependent on Mideast oil, provide cooperation? And most important of all, with all the defense cutbacks the President has sponsored, with what military forces, specifically, are we going to respond? Secretary Brown's recent budget was formulated before the President's turnabout realization of Russia's aggressive intentions around the globe. There are no new programs, no increases in spending in order to get shorter leadtimes.

Some of the solutions to these problems can come just by having a strong, consistent, and cohesive foreign and defense policy. We need a policy that other countries, especially our enemies, will believe that we will follow through on—that we have not only the capabilities but the will and sense of direction to back our policy up. For the short term, we need to expand our naval flexibility. President Ford's projected shipbuilding plan called for 157 ships in 5 years. President Carter, after slashing this to only 67, still plans only for 97. Meanwhile some of our ships were built before World War II. The former Chairman of the Joint Chiefs of Staff, Maxwell Taylor, suggests that until new ships are built we consider leasing civilian ships for transport and supply.

Mr. President, there will be no rapid deployment force until we have the logistics, the planes, and the ships to get it deployed. And what of the people? The President talks about registration for the draft, but what about the lack of seasoned military personnel, those vitally necessary, trained specialists in the middle grades? That is where our real personnel shortfall is. What specific actions show the United States is taking steps to commit its will and power to back its strategic interests? We have embargoed our farmer's grain so that Argentina could sell theirs to the Russians instead of us. We have spoken about the possibility of going to war. The Soviet Union is superior to the United States in the things that count in crises: Conventional forces, and now, for the time since nuclear weapons were invented in this country. They are arguably superior in strategic forces. Russia is hardly likely in such circumstances to heed symbolic gestures and/or alarmist rhetoric.

I fear the Soviet Union will disregard Clark Clifford's warning about going to war. They see the President's state of the Union message as little more than an attempt at intimidating propaganda. This may be incorrect, but such miscalculations can lead to dangerous confrontations and unintentioned wars.●

NORTH AMERICAN TRADE

● Mr. BAUCUS. Mr. President, in 1979 I held several hearings on the subject of North American interdependence. At those hearings a wide range of witnesses appeared with many differing views on how North American trade may be increased and on what could be done to strengthen the economies of North America. Senator DOMENICI has taken a particular interest in this subject and he and I have worked together to advance the concept.

As a result of those hearings and as a result of personal investigations and conversations with many people, in Mexico, Canada, and the United States, I have gradually developed a number of proposals many of which have already been submitted in previous statements in the RECORD.

Particularly, I might mention the emphasis I have given to trade. My point is that our energy relationship is only one aspect of North American interdependence. Even without any energy relationship, we should proceed to strengthen trade among the countries of North America, since to do so should serve the interests of all concerned. Indeed, if it is not perceived as in the interests of all nations, the concept cannot be pursued. It is essential that the sovereignty of participants not be threatened in any way.

I have investigated and pressed a number of ideas; for example, I have stated my views that the State Department should reorganize itself to handle the countries of North America in a new bureau of North American affairs. To deal with Canada within that Department's European Bureau makes little sense to me; I commissioned a study by the GAO which in my view substantiated these conclusions. I have also looked at the possibilities for various sectoral agreements, for simplification of border trade, for increasing and simplifying trade in the service industries, and I have encouraged the creation of academic fellowships to permit increased intellectual exchange.

Of course, underlying all of my efforts was the initial amendment I submitted to the Trade Act which calls upon the administration to complete a 2-year study of possibilities for increased North American trade. I am now in communication with the U.S. Trade Representative and other agencies of the Government to determine how the administration plans to implement this mandate.

Central to the future course of events has been the conviction, shared by Senator DOMENICI, that an institutional framework must be devised which will provide direction for those who are trying to increase trade in North America. Some organization, immune to domination by any single party, industry or sector, must be considered to promote areas of interest and to warn when any dangers might arise.

Senator DOMENICI and I are tentatively planning a meeting with top industry, Government and other leaders to determine exactly how that structural framework might best be constructed. An institutional structure cannot be imposed from above if the industries and nations involved are not interested.

There have been many suggestions for an institutional framework. I believe we are on the right track and that we will be able to propose to the Senate a well thought out and valid proposal in this realm after we have had further meetings with the interested parties. Or, conversely, we will be able to report that suspicions and self-interest are still too strong to permit much progress.

We shall keep our colleagues informed as we go along and hopefully look forward to their cooperation in this important endeavor.●

GOSPEL MUSIC MONTH

● Mr. SASSER. Mr. President 2 days ago I introduced Senate Joint Resolution 135, designating the month of March, 1980 as Gospel Music Month. It is an honor long overdue this popular form of music.

Gospel, according to Webster, means "good news" or "glad tidings." Gospel music, then, is the musical expression of good news and glad tidings.

The history of gospel music attests to this statement. From its roots in colonial America to its heritage in our everyday lives gospel music has always denoted happiness. It has promoted happiness in the good news of a message available to all persons, regardless of age, creed, or color. The broad-based appeal of gospel music is witnessed in the various ways gospel music is presented: Black, traditional, inspirational, and contemporary. And fully 10 percent of all radio stations in my home State of Tennessee program a gospel format.

Many of my colleagues may remember the Broadway musical success, Godspell. It was a production that appealed to millions through its contemporary musical form and its presentation of the very principles underlying the true gospel. Godspell was contemporary gospel music at its best. And we cannot forget the contribution of Tennessee Ernie Ford, the Jordanaires, and many of our most popular country and western recording artists to the development of gospel music. Together they represent not only the diverse range of gospel music but its singular purpose.

The four major forms of gospel music are ably represented by the members of the Gospel Music Association, the industry's major representative organization. The association, I am proud to say, will be celebrating Gospel Music Week March 23–26) at the Opryland Hotel in Nashville, Tenn. The 4 days of seminars, workshops, panel discussions, choral readings and gospel music performances will climax in the 11th annual presentation of the Dove awards, the industry's "Oscar."

Gospel music, Mr. President, is very much a part of the American scene. It is a form that embodies a highly respected quality: Reverence for the Lord. It is striking to note the uniquely American way in which gospel music helps us to pay reverence to the Maker. Let me quote from Psalm 100:

Make a joyful noise unto the Lord, all ye lands. Serve the Lord with gladness: come before his presence with singing.

It is in gospel music that we find the musical praise for the Lord and his work. To honor gospel music and its contribution to these United States is a fitting tribute.

I urge the Senate's early approval of Senate Joint Resolution 136.●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The Senate is still in morning business.

Mr. ROBERT C. BYRD. Does the Senator wish to transact morning business?

Mr. TOWER. The Senator wants to offer an amendment.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

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

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The Senate continued with the consideration of H.R. 5168.

UP AMENDMENT NO. 954

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Mr. MORGAN, proposes an unprinted amendment numbered 954.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, following line 18, insert the following:

"SEC. 5. Title 10, United States Code, is amended by adding the following new subsections at the end of section 8072:

"(d) There is a Deputy Judge Advocate General in the Air Force who is appointed by the President by and with the advice and consent of the Senate from officers of the Air Force. He shall be appointed from Judge Advocates of the Air Force who have the qualifications prescribed for the Judge Advocate General in subsection (b) above. The term of office is two years, but may be sooner terminated, or extended by the President. An appointee who holds a lower regular grade shall be appointed in the regular grade of Major General.

"(e) When there is a vacancy in the Office of The Judge Advocate General, or during the absence or disability of The Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of The Judge Advocate General until a successor is appointed or the absence or disability ceases."

Mr. THURMOND. Mr. President, when the Defense Officer Personnel Management Act (S. 1918) was passed 87 to 0, it contained my amendment to make sure that the positions of judge advocate general and deputy or assistant judge advocate general of all the services should be statutory positions in the grade of major general.

Unfortunately, a drafting error in my amendment resulted in the position of deputy judge advocate general of the Air Force having neither a statutory position nor grade.

Senator MORGAN had previously urged in our committee that the deputy judge advocate general of the Air Force, be a statutory position in the grade of major general and I was trying, by my amendment, to make sure that this was the case for all services.

Senator MORGAN and I are now offering an amendment to H.R. 5168 which will do what the Senate agreed to do 87 to 0 when it passed S. 1918, which intent failed because of a drafting error.

Our intent was set out in my remarks in this Chamber on November 30, 1979 at page 34213 of the RECORD. When we voted on S. 1918 that day, with my amendment, and passed it 87 to 0, it was with that intention. Today we merely carry out that intention of the Senate, which was frustrated by a drafting error.

Mr. President, in view of that situation, I hope the manager of the bill will accept this amendment.

Mr. NUNN. Mr. President, I have talked to the Senator from South Carolina about this amendment. I understand what he is doing. He is really advocating in this amendment that we place the Air Force on the same standing as to the deputy judge advocate general position as the other branches of the service.

Am I correct in that?

Mr. THURMOND. Mr. President, that is correct.

Mr. NUNN. So the Air Force, if this amendment passes, will have the same position with the same rank as the Army and the Navy.

Mr. THURMOND. That is the only purpose of this amendment.

Mr. NUNN. I might say for the RECORD here that I believe it is a bad precedent which is not being carried out by this amendment, but rather, by existing law, and this amendment adds to that, to some degree, a bad precedent to have a minimum rank for certain positions in the military.

What I would much prefer to do, and we may very well entertain this at another hearing in the subcommittee, is let the President of the United States and the Secretary of Defense decide the appropriate rank for a given position, and this amendment would specify that the Deputy Judge Advocate General in the Air Force will be a major general.

But I also understand the Senator from South Carolina is proposing this because that is already the law. It has been the law for many years with respect to both the Army and Navy. He is trying to achieve the purpose of equity between the three services.

So with the advance notice to my colleagues that I do reserve judgment on the wisdom of creating minimum rank for certain positions in law as opposed to leaving that to the discretion of the Chief Executive and leaving that flexibility available for changing circumstances; with that kind of reservation I would urge my colleagues to accept this amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. THURMOND. I yield back my time.

Mr. NUNN. Does anyone else want to speak on this amendment?

I believe Senator MORGAN was a cosponsor?

Mr. THURMOND. The distinguished Senator from North Carolina is a cosponsor. He had to leave to go to North Carolina, I think to file papers for the race again for the Senate and he could not be here. He asked me to express his deep interest in this matter.

Mr. NUNN. I know he has taken a great lead in this, particularly the Judge Advocate General's Corps.

I thank the Senators for presenting this amendment and I urge my colleagues to accept it.

Unless someone else wants to be heard, I will yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment of the Senator from South Carolina (UP No. 954) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 955

(Purpose: To make certain technical corrections in the bill)

Mr. NUNN. Mr. President, I send an amendment to the desk that is a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 955.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 25, strike out ", or" and insert in lieu thereof "; or".

On page 10, line 9, insert "or of the Public Health Service" after "armed force".

On page 10, strike out lines 14 through 18 and insert in lieu thereof the following:

"(2) the amount of an allotment made from such member's basic pay to a dependent if such member is scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than 60 days before the scheduled date of the assignment of such member to such duty.".

On page 11, line 11, insert "(1)" after "(b)".

On page 11, line 19, strike out "(4)" and insert in lieu thereof "(3)".

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NUNN. 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. NUNN. Mr. President, this is a technical amendment and it has now, I believe, been agreed to by the other side of the aisle. It makes simple technical changes, no substantive change whatsoever to the bill. I ask that the Senate approve it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. TOWER. I yield back the remainder of my time.

Mr. NUNN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment of the Senator from Georgia (UP amendment No. 955) was agreed to.

Mr. NUNN. Mr. President, if there are further amendments, we certainly would like for them to be called up at this time.

I believe the unanimous-consent request provides, the Senator from West Virginia has already specified, we will consider other amendments on Monday, notably the Schmitt amendment and the Armstrong amendment, and the Warner substitute to the Armstrong amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. NUNN. Yes.

Mr. ROBERT C. BYRD. I am advised by the minority that no callbacks have been received on that side of the aisle indicating amendments will be called up this afternoon by Senators.

I am advised by our Cloakroom on this side of the aisle there have been no calls from Senators indicating wishes to call up amendments.

So I, therefore, think Senators have had ample notice.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. MATHIAS) be named as a cosponsor of the Warner amendment.

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

Mr. NUNN. Mr. President, I send the Warner amendment to the desk and ask that it be printed in the RECORD. We have a number of cosponsors. They are Mr. WARNER, Mr. NUNN, Mr. STENNIS, Mr. TOWER, Mr. CANNON, Mr. EXON, Mr. HUMPHREY, Mr. LEVIN, Mr. INOUYE, Mr. MORGAN, and Mr. MATHIAS. I ask that other cosponsors be added, as requested.

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

AMENDMENT NO. 1647

Strike out all after "viz:" and insert in lieu thereof the following:

At the end of the bill add the following new sections:

FLIGHT PAY FOR ENLISTED CREW MEMBERS

SEC. 6. (a) Section 301 of title 37, United States Code, relating to hazardous duty pay, is amended—

(1) by striking out "(1), (2), or (3)" in subsection (b) and inserting in lieu thereof "(2) or (3)";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively, and by inserting after subsection (b) a new subsection (c) as follows:

"(c) For the performance of the hazardous duty described in clause (1) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	Years of service computed under sec. 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	131	131	131	131	131	131	131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	75	88	88	100	100	106	113
E-4	69	81	81	88	94	100	100
E-3	69	75	75	75	75	75	75
E-2	63	75	75	75	75	75	75
E-1	63	69	69	69	69	69	69
E-4 under 4 mo.	63						
Aviation cadets	63						

	Years of service computed under sec. 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	131	131	131	131	131	131	131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	75	75	75	75	75	75	75
E-2	75	75	75	75	75	75	75
E-1	69	69	69	69	69	69	69"; and

(3) by striking out "(b) or (c)" in the first sentence of subsection (g), as redesignated by clause (2), and inserting in lieu thereof "(b), (c), or (d)".

(b) The amendments made by this section shall be effective with respect to flight incentive pay payable for periods beginning after December 31, 1979.

FLIGHT PAY FOR OFFICERS

SEC. 7. (a) The tables in clause (1) of section 301a(b) of title 37, United States Code, relating to aviation career incentive pay, are amended to read as follows:

"Phase I

"Monthly rate:	Years of aviation service (including flight training) as an officer:
$125	2 or less
$156	Over 2
$188	Over 3
$206	Over 4
$306	Over 6.

"Phase II

"Monthly rate:	Years of service as an officer as computed under sec. 205:
$281	Over 18
$256	Over 20
$231	Over 22
$206	Over 24 but not over 25".

(b) The last sentence in clause (1) of section 301a(b) of such title is amended by striking out "$160" and "$165" and inserting in lieu thereof "$200" and "$206", respectively.

(c) The table in clause (2) of section 301a (b) of such title is amended to read as follows:

"Monthly rate	Years of aviation service as an officer
$125	2 or less:
$138	Over 2
$250	Over 6".

(d) The amendments made by this section shall be effective with respect to aviation career incentive pay payable for periods beginning after December 31, 1979.

CAREER SEA PAY FOR ENLISTED MEMBERS

SEC. 8. (a) Section 305a(b) of title 37, United States Code, relating to career sea pay, is amended to read as follows:

"(b) For sea duty performed after December 31, 1979, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$29
Over 5	40
Over 7	52
Over 9	63
Over 10	75
Over 11	86
Over 12	115".

(b) Section 804(a)(2) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485) is repealed.

(c) The amendments made by this section shall be effective with respect to career sea pay payable for periods beginning after December 31, 1979.

EXTENSION OF PERIOD DURING WHICH REENLISTMENT BONUSES MAY BE PAID

SEC. 9. Section 308(a)(1) of title 37, United States Code, relating to reenlistment bonuses, is amended—

(1) by striking out "ten" in clause (A) and inserting in lieu thereof "fourteen"; and

(2) by striking out "twelve" in the last sentence and inserting in lieu thereof "sixteen".

STATION HOUSING ALLOWANCE

SEC. 10. (a) Section 403(a) of title 37, United States Code relating to basic allowance for quarters, is amended by inserting "(1)" after the subsection designation "(a)" and by adding at the end thereof the following new paragraph:

"(2) Under uniform regulations prescribed by the Secretaries concerned, a station housing allowance may be paid to a member of the uniformed services assigned to duty in any area of the United States, except Alaska and Hawaii, whenever and to the extent that the average cost in such area for housing for members of the uniform services serving in the same or equivalent grade as such member exceeds by more than 15 percent the amount of the basic allowance for quarters of such member.".

(b) The catchline of section 403 of such title is amended to read as follows:

"Basic allowance for quarters; station housing allowance".

(c) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

"403. Basic allowance for quarters; station housing allowance.".

(d) The amendments made by this section shall be effective with respect to periods after December 31, 1979, for which basic allowances for quarters are payable.

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 11. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "that is not more than 7 cents a mile based on" in clause (1) and inserting in lieu thereof "per mile prescribed by the Secretaries concerned multiplied by the"; and

(2) by striking out "of not more than 10 cents a mile based on" in clause (3) and inserting in lieu thereof "at a rate per mile prescribed by the Secretaries concerned multiplied by the".

(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

(1) by striking out "first-class transportation, including sleeping accommodations," in clause (1) and inserting in lieu thereof "common carrier transportation";

(2) by inserting "and designating areas as high cost areas" after "rates" in clause (2); and

(3) by striking out "first-class transportation, including sleeping accommodations and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage rates" in clause (3) and inserting in lieu thereof "transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances".

(c) The amendments made by this section shall be effective with respect to travel and transportation performed after December 31, 1979.

STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

SEC. 12. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

"§ 907. Pay and allowances stabilized: former enlisted members and warrant officers

"(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as an officer; or

"(2) the pay and allowances to which he would be entitled if he were in his last enlisted grade before appointment as an officer.

"(b) A warrant officer who accepts an appointment as an officer shall, for service as a commissioned officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as a commissioned officer;

"(2) the pay and allowances to which he would be entitled if he were in his last warrant officer grade before appointment as a commissioned officer; or

"(3) the pay and allowances to which, before his appointment as a commissioned officer, he was entitled in accordance with subsection (a)(2) of this section.

"(c) For the purposes of this section—

"(1) the pay and allowances of a former grade include—

"(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

"(B) subject to subsection (e), allowances under chapter 7 of this title; and

"(2) the rate of pay and allowances of a former grade is that to which the member would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade, based upon time in grade and years of service, as otherwise provided in this title.

"(d) Proficiency pay under section 307 of this title, incentive pay under section 301 of this title for hazardous duty, and special pay under sections 301 through 305 of this title for diving duty, sea duty, and duty at certain places may be considered in determining the amount of the pay and allowances of a former grade only so long as the member continues to perform the duty and would otherwise be eligible to receive that pay in his former grade.

"(e) Clothing allowance under section 418 of this title may not be considered in determining the amount of pay and allowances in a former grade if the officer is entitled to a uniform allowance under section 415 of this title.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following:

"907. Pay and allowances stabilized: former enlisted members and warrant officers.".

(b) Section 203 of such title, relating to rates of pay for members of uniformed services, is amended by adding at the end thereof the following new subsection:

"(d) The basic pay of commissioned officers in pay grades O-1, O-2, and O-3 who are credited with over four years' active service as warrant officers shall be computed in the same manner as commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.".

(c) The amendments made by this section shall be effective with respect to periods, for which pay and allowances are payable, which begin after the month in which this section is enacted.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

SEC. 13. Effective January 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 percent.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, the Senate will convene at 12 noon. During that day, the Senate will resume consideration of H.R. 5168. The only amendments to be in order will be the amendment by Mr. SCHMITT, which was already covered by the earlier agreement, an amendment by Mr. ARMSTRONG, which was covered in that agreement, and a substitute amendment to the Armstrong amendment on which there is a 2-hour time limitation. That substitute amendment will be the Warner-Nunn amendment.

Any rollcall votes on legislation on Monday, if ordered, will begin not before 6 p.m. There could be procedural votes, of course, in getting the Sergeant at Arms to request the attendance of Senators. I do not anticipate there will be that problem, but it could result in a rollcall vote. Otherwise, rollcall votes on legislation will begin not before 6 o'clock on Monday.

RECESS TO MONDAY, FEBRUARY 4, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand recessed until the hour of 12 noon on Monday next.

The motion was agreed to; and, at 4:53 p.m., the Senate recessed until Monday, February 4, 1980, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate February 1, 1980:

NATIONAL COUNCIL ON THE HUMANITIES

Marian B. Javits, of New York, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1982, vice Eugene Smith Pulliam, resigned.

PANAMA CANAL COMMISSION

The following-named persons to be members of the Board of the Panama Canal Commission: (New positions)

Michael Blumenfeld, Assistant Secretary of the Army, of the District of Columbia.

John Alden Bushnell, of Connecticut.

John W. Clark, of Louisiana.

Clifford Bradley O'Hara, of Connecticut.

William Sidell, of California.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

Daniel F. Haynes
John D. Griffith
Bruce E. Moreland
Eldon J. Robison
Dana A. Gray
Charlie L. Cozby, Jr.
Carl S. Jordan
Bryan F. Collver
Patrick C. McHugh, Jr.
Lloyd G. Spence, Jr.
Philip T. Stanley
Timothy J. Gallaway
Jack R. Smith
David W. Alley
James L. Person
Tedric R. Lindstrom
Iain (n) Anderson
Scott J. Johnson
Bruce R. Mustain
George T. Elliott
Douglas P. Riggins
Paul J. Lammerding
Gary A. Napert
Mchael P. Lucia
Timothy W. Rolston
Robert L. Maki
John E. Dejung
Kelly P. Reis
Ronald T. Hewitt
Matthew J. Wixsom
Keith M. Belanger
Eric K. Chapman
Barry L. Poore
Paul S. Dalsanto
Martin R. Weikart
Mark J. Kerski
Robert K. Roemer
John F. Brooks
Michael P. Butler
Mark A. Frost
Bruce R. McQueen
Robert W. Durfey, Jr.
Paul E. Destefano
Michael J. Gardner
Stephen T. Delikat
Douglas C. Connor
Richard (n) Muth
Thomas S. Fullam
Edward L. Wilds, Jr.
Jay F. Boyd
Daniel (n) Rice
Jeffrey A. Kayser
Timothy J. Spangler
Robert A. Deletto
Gerard D. Massad
Randall R. Gilbert
Charles F. Barker
William G. Davidson
David K. Hebert
Donald R. Clinkenbead
Robert C. Hayden
Richard W. Cusson, Jr.
Gene L. Schlechte
Patrick J. Cunningham, Jr.
Jack R. Bentley
Mark J. Sikorski
Mark H. Landry
Rex J. Blake
John R. Huber
James P. Kevin, Jr.
Daniel C. Whiting
Peter J. Dinicola
Stuart J. Overton
Joseph G. Pickard
William P. Vieth, Jr.
Mark J. Burrows
Kevin G. Ross
Kevin P. Carpentier
William A. Emerson
Manson K. Brown III
Mark L. Miller
Lawrence R. Sandeen
Clinton S. Gordon
William F. Meyn, Jr.
John J. Lapke
Keith B. Schleiffer
Richard E. Wells
Robert W. McCarthy III
Lloyd M. McKinney
Wayne N. Collins
James A. Watson IV
Briak J. O'Keefe
Mark D. Hill
Lee T. Romasco
Richard B. Gaines
Martin L. Jackson
Joseph V. Pancotti
Bruce A. Drahos
Robert M. Bishop, Jr.
Michael R. Seward
Robert M. Czechowicz
Brian J. Ford
Frederic C. Harwood
Jay R. Hickman
Steven T. Penn
Ronald F. Wohlfrom
Clifford K. Comer
James A. McKenzie
William P. Layne III
William J. Wagner
George W. Kellan III
Richard C. Yazbek
Norman K. Swenson
Edward L. Young, Jr.
Stephen L. Kantz
William J. McHenry
Joseph T. Riordan
Jeffrey B. Stark
Thomas J. Murphy
Mark W. Cerasale
Stephen A. Ruta
Eddie V. Mack
Dwight K. McGee
Bruce D. Ward
Joseph R. Castillo
Mark E. Dahl
Robert A. Vanzandt
Richard A. Nickle
John W. Yost
Gene R. Allard
Brooke E. Winter
Andrew G. Givens
William V. Smyth
Paul A. Preusse
Kurt R. Wellington
Jon M. Bechtle
Christopher (n) Bond
Bruce W. Black
Kenneth (n) Hull
Scott M. Holley
Michael J. Lapinski
Jonathan B. Lemmen
George S. Sabol
Thomas J. Kavanaugh
Douglas E. Burke
Kenneth (n) Keefe
Jeffrey A. Georges
Adeste F. Fuentes
Robert F. Reynolds
Larry C. Mercier
Mitchell R. Forrester
Ronald J. Rabago
Thomas J. Chuba, Jr.
David G. Maylum
Kenneth B. Cowan
Mark E. Ashley
Joseph C. Loadholt
Douglas N. Eames
Matthew J. Vaughn
Will D. Agen
Paul S. Berry
Robert E. Reininger
Kent P. Mack
Leroy E. Smith
Martin D. Stewart
Benjamin M. Harrison
Lance W. Carpenter
Michael H. Vincenty
Byron (n) Ing
Alfred M. Ducharme
Steven H. Ratti
Douglas E. Yon
Cleon W. Smith
Wayne C. Parent
Michael P. Rand
Michael J. Mangan
Edward A. Richards, Jr
William C. Billings, Jr.
George F. Ryan
Michael H. O'Neill
Jeffrey E. Brager
Steven F. Butler
Michael R. Safford
Charles L. McAllister
William T. Blunt
Alexander P. Munoz
Rodney L. Boyd
Marshall M. Thomas
Joseph H. Ewalt
Michael T. Burnett
Michael G. Fetrow
Gerald R. Hagan
Darrell W. Williams
Ronald S. Leidner
William M. Cherry

The following named Reserve officers of the Coast Guard to be Regular commissioned officers:

James B. Hall
Michael J. Hanratty
Kevin A. Nugent

IN THE NAVY

The following-named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

To be rear admiral

John C. McArthur
Harold N. Wellman
Donald P. Roane
Donald L. Felt
James E. McCardell, Jr.
John T. Parker, Jr.
Edward J. Hogan, Jr.
George W. Davis, Jr.
Verle W. Klein
John A. Baldwin, Jr.
Jonathan T. Howe
William A. Kearns, Jr.
Thomas C. Watson, Jr.
William D. Smith
Jackson K. Parker
Dickinson M. Smith
Paul E. Sutherland, Jr.
Gerald W. MacKay
Benjamin T. Hacker
Allen D. Williams
Charles J. Moore
Clinton W. Taylor
William C. Wyatt III
Thomas J. Cassidy, Jr.
Robert C. Austin
Edward M. Peebles
Edward H. Martin
William F. McCauley
Daniel L. Cooper
Walter T. Piotti, Jr.
Lowell R. Myers
Fred W. Johnston, Jr.
Peter B. Booth
Paul F. McCarthy, Jr.
Roger D. Johnson
Frank B. Kelso II
John M. Poindexter

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of major general under the provisions of title 10, United States Code, section 5769:

James L. Day
David B. Barker
George B. Crist
Dwayne Gray
Richard A. Kuci

HOUSE OF REPRESENTATIVES—*Monday, February 4, 1980*

The House met at 12 o'clock noon.

Father William McCarthy, St. John the Baptist Catholic Church, Quincy, Mass., offered the following prayer:

Let us pray.

O God, the source of all wisdom, whose statutes are good and gracious, and whose law is truth, guide and direct the Congressmen, that by just and prudent laws, they may promote the well-being of all our people. Through Christ our Lord. Amen.

Almighty God, our Father, you have charged us with the task of building on this Earth a home where all the nations dwell in unity, liberty, and justice. We pray for strength and purpose to make officers in every branch of Government accountable to all the people, fulfilling roles of service and responsibility, that they may seek justice and protect the weak and lead us in constructing institutions for our peace and mutual aid. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office.

FATHER WILLIAM McCARTHY

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, it is my pleasure to introduce to the Congress the chaplain for Monday, February 4, 1980, Rev. William R. McCarthy, pastor of St. John the Baptist Church in Quincy, Mass. Father McCarthy is a close friend of my family. For my wife, Virginia, and I, it is particularly rewarding to have him here. Father McCarthy performed the marriage ceremony on our wedding day.

To all who know him, Father McCarthy is truly "a man for all seasons." His tremendous work in the church is coupled with a tireless dedication to the