SENATE—*Wednesday, April 2, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

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

O God who has brought us to this holy season, help us to keep it with humility and penitence, with love and adoration and gratitude. We thank Thee that when man in his sin and alienation by himself could not lift himself Thou didst send Thy son to suffer, to die, to conquer sin and death. By our hope in the everlasting Gospel, wilt Thou dispel the gloom and fear which engulfs the nations and threatens the peace. Help us to work in the faith that it is by sacrifice and self-giving that man is redeemed from his folly and his sin, and that there comes a resurrection morning and new life. Grant us grace to make the self-surrender that we may know the blessing of self-fulfillment. And may Thy kingdom come beginning in each of us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 2, 1980.

To the Senate:

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

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

TIME-LIMITATION AGREEMENT—PANAMA CANAL COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 2 p.m. today the Senate go into executive session to consider the five nominations for the Panama Canal Commission; and, provided further, that there be a time limitation of 2 hours on those nominees, 2 hours overall, to be equally divided between Mr. LEVIN and Mr. TOWER; provided further that upon the expiration of the time or upon its being yielded back, and in no event later than 4 p.m., the Senate proceed to vote on the nominees.

There will be rollcall votes on the five nominees. I ask unanimous consent that no other business be transacted during that executive session.

Mr. BAKER. Mr. President, reserving the right to object—and I will not—this agreement is cleared on our side, as the majority leader and I have discussed, but I would like to explore the possibility of combining the five votes, to begin not later than 4 p.m., possibly into one vote. I am not sure that we have done that before in the case of nominations, but to have five rollcall votes even back-to-back would take an hour and 15 minutes.

I might inquire then of the majority leader if he would be willing to consider such an arrangement?

Mr. ROBERT C. BYRD. Yes. In the meantime I would suggest that our respective cloakrooms contact Senators to see if there is any objection to having the five votes en bloc.

Mr. BAKER. I thank the majority leader and I will ask my cloakroom attendants to undertake that inquiry on our side now.

To make sure I understand the arrangement—to continue my reservation, Mr. President—the proposal made by the majority leader is that we vote not later than 4 o'clock on the confirmation of the five Commissioners for the Panama Canal Commission. There will be a rollcall vote on each of them unless this request is further modified to provide for the consolidation of the five nominations into a single vote to occur not later than 4 o'clock.

Mr. ROBERT C. BYRD. That is correct, the Senator is correct, and I ask unanimous consent that it be in order at any time to order the yeas and nays on the five nominees.

Mr. BAKER. I have no objection.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered, as in executive session.

Mr. ROBERT C. BYRD. I yield the floor.

JOHN TATE IS A CHAMPION

Mr. BAKER. Mr. President, politicians and athletes have a special sense of communion, knowing as we know so well the thrill of victory and the agony of defeat.

I regret to report that, as far as politicians and athletes from Tennessee are concerned, we have seen more than our share of defeats this year.

In my own case, my quest for the Republican Presidential nomination did not meet with the overwhelming public enthusiasm I had hoped for.

Now a champion athlete from Tennessee—John Tate, the World Boxing Association's heavyweight champion—has lost his crown after 14½ gallant, winning rounds of his first title defense.

The fortunes of the fighting game, like those of politics, can change literally in the wink of an eye. But a heartbreaking loss does not make a champion athlete any less a champion. John Tate is a talented pugilist, a young man with a great heart, a young man who has brought tremendous international credit to the State of Tennessee.

John Tate is a champion. The people of Tennessee are very proud of him. We have a great deal of faith in him. And we expect that the world of boxing has not seen the last of him.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. I do not have any need for my time.

Mr. BAKER. Mr. President, I have no requirement for my time under the order, and I am prepared to yield it back unless the majority leader needs that time.

Mr. President, I yield back my time under the standing order.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico is now recognized for not to exceed 15 minutes.

WE NEED QUICK NATIONAL DEFENSE FIXES NOW—OUR NAVY

Mr. SCHMITT. Mr. President, back when I was a kid in New Mexico my friends and I used to run at each other in an arroyo, a sandy arroyo portion, continued to shoot at each other and practiced dying. We got to be quite pro-

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ficient in the act of dying in the sands of New Mexico's dry washes.

But, Mr. President, I never thought I would see the time when the United States as a nation would be in the process of practicing dying.

Mr. President, we have allowed our foreign and defense policies to deteriorate to the point where our national security is clearly, unequivocally threatened. The only way to quickly turn the situation around is through quick fixes to our broken and now rusted defense apparatus. Clearly there is a need for long-term repair, but we have delayed so long in providing for that repair that now we are, in addition, required to fix the situation we have today.

In the RECORD of yesterday I addressed our shortfalls and vulnerabilities in the strategic defense area, and proposed quick-fix programs to meet the shortfalls relative to our ICBM force.

There are, however, other areas of our national defense which need quick-fix type programs to stem the deteriorating and increasingly dangerous trend we see today.

One of these areas is our Navy. The question that must be raised about it is its growing inability to protect vital sealanes and to project the necessary power anywhere in the world at any time when our national interests are threatened.

The United States has become dependent on foreign sources for many critical raw materials. While crude oil from the Middle East and elsewhere receives most attention, the United States is far more dependent on other critical raw materials than we are on the importation of oil. We could much more easily produce our necessary requirements of crude oil than we could some of these other strategic mineral resources.

For example, Mr. President, we import 79 percent of our tin, 91 percent of our chromium 93 percent of our bauxite and alumina, 95 percent of our cobalt, and 100 percent of our strontium, to name just a few strategic, literally and clearly strategic, mineral resources, ones upon which not only depend our economy but our national security.

I ask unanimous consent that a table of U.S. net import reliance of selected minerals prepared by the Bureau of Mines be printed in the RECORD.

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

U.S. NET IMPORT RELIANCE OF SELECTED MINERALS AND METALS AS A PERCENT OF CONSUMPTION IN 1978

Minerals and metals	Net import reliance[1] as a percent of apparent consumption[2]	Major foreign sources (1974–77)
Columbium	100	Brazil, Thailand, Canada.
Mica (sheet)	100	India, Brazil, Madagascar.
Strontium	100	Mexico, Spain.
Manganese	97	Gabon, Brazil, Australia, South Africa.
Tantalum	97	Thailand, Canada, Malaysia, Brazil.
Cobalt	95	Zaire, Belgium-Luxembourg, Zambia, Finland.
Bauxite and alumina	93	Jamaica, Australia, Surinam.
Chromium	91	South Africa, U.S.S.R., Turkey, Southern Rhodesia.
Platinum-group metals	90	South Africa, U.S.S.R., United Kingdom.
Asbestos	85	Canada, South Africa.
Tin	79	Malaysia, Boliva, Thailand, Indonesia.
Fluorine	76	Mexico, Spain, Italy, Canada.
Nickel	76	Canada, Norway, New Caledonia, Dominican Republic.
Zinc	66	Canada, Mexico, Australia, Belgium-Luxembourg.
Potassium	64	Canada, Israel, Federal Republic of Germany.
Mercury	64	Algeria, Canada, Spain, Mexico, Yugoslavia.
Cadmium	63	Canada, Australia, Belgium-Luxembourg, Mexico.
Tungsten	56	Canada, Bolivia, Peru, Thailand.
Gold	53	Canada, Switzerland, U.S.S.R.
Silver	48	Canada, Mexico, Peru, United Kingdom.
Selenium	43	Canada, Japan, Yugoslavia.
Titanium (ilmenite)	42	Canada, Australia.
Barium	38	Peru, Ireland, Mexico.
Vanadium	36	South Africa, Chile, U.S.S.R.
Gypsum	33	Canada, Mexico, Spain.
Iron ore	29	Canada, Venezuela, Brazil, Liberia.
Iron and steel scrap	(19)	
Antimony	23	South Africa, Bolivia, China, Mexico.
Copper	20	Canada, Chile, Peru, Zambia.
Iron and steel products	12	Japan, Europe, Canada.
Sulfur	12	Canada, Mexico.
Aluminum	11	Canada.
Salt	10	Canada, Bahamas, Mexico.
Lead	9	Canada, Mexico, Peru, Australia.
Cement	8	Canada, Norway, Bahamas, Mexico, United Kingdom.
Pumice and volcanic cinder	4	Italy, Greece.

[1] Net import reliance equals imports minus exports plus adjustments for Government and industry stock changes.

[2] Apparent consumption equals U.S. primary plus secondary production plus import reliance. Bureau of Mines, U.S. Department of the Interior (import-export data from Bureau of the Census). Revised Sept. 1, 1979.

Mr. SCHMITT. The source for many of our raw materials is the Third World and Africa in particular. U.S. policy in these areas of the world has been dictated entirely by short-term political considerations and not by an integrated view of all U.S. interests. The Rhodesian embargo, particularly as it relates to chrome, as a case in point, has been commercially and politically disadvantageous to the United States and very advantageous to the Soviet Union. Our foreign policy toward the developing world should be one of making it worthwhile to be our friend and undesirable to be our enemy. Unfortunately, our policy has been just the opposite for too many years.

We have allowed the Soviet Union and her surrogate, Cuba, to foster instability throughout the Third World which has strengthened the prices of Soviet exports of raw materials and their leverage on U.S. foreign and domestic policies. The necessary steps to insure an adequate supply of raw materials and secure sources for them have not been taken by this administration, nor is it clear that they even conceive there is a problem.

But the problem is even more serious than a secure source for our raw materials. There is serious concern that our Navy cannot protect the sealanes over which these raw materials must travel, assuming the sources of supply are available to us. The policies of this administration have led to a reduction of ships, particularly those that are critical to convoy protection, to a dangerous level. The weakening of the Navy and other misguided defense policies has made it unlikely that the shipping lanes of the free world can be protected from extensive and prolonged interdictions or threats of interdictions by Soviet forces or their surrogates.

It seems that each year the administration has promised us more ships for the Navy but each year those ships appear in future budgets not in current budget outlays. Somehow we never quite make it to those years and we never quite get those ships. At the same time, we are retiring ships and submarines faster than we are building them.

The Navy has another function besides the protection of shipping lanes.

As I indicated, that function is the projection of military power and political power throughout the world wherever our national interests require such projection. The United States is a maritime nation, a fact sometimes forgotten. Nevertheless, we are dependent on our ability to protect the seas and to assist our allies throughout the world in the protection of their necessary trade and economic well-being based on that trade.

The administration has belatedly come to understand the importance of the Navy in its use off the coast of Korea recently during the unfortunate events surrounding the assassination of the president of that nation, and now more critically, in the Indian Ocean relative to the events surrounding the taking of hostages in Iran.

The Rapid Deployment Force, which is receiving so much attention now, will be useless without the type of Navy which is strong and which can project power from the sea to support those forces.

There are a number of "quick fixes" which can quickly augment our naval capabilities. First, we can restore five Essex-class carriers which would supple-

ment our carrier force. Michael Vlahos discussed this course of action in an article entitled "There's Life in Those Old Carriers Yet," which appeared in the March 13 issue of the Christian Science Monitor. Secondly, we can restore our mothballed battleships and bring them into service. Battleships would significantly augment our ability to project force and would be appropriate in a crisis such as Iran or places such as Korea. In the March 17 issue of the Washington Post appeared two letters to the editor which effectively presented the case for restoration of the old warhorses. The writers were Capt. Robert Peniston, the last commanding officer of the U.S.S. *New Jersey*, and Aimo Hill, a naval aviator.

Mr. President, I ask unanimous consent that the article by Michael Vlahos and the letters to the editor by Aimo Hill and Captain Peniston be printed in the RECORD.

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

[From the Christian Science Monitor, Mar. 13, 1980]

THERE'S LIFE IN THOSE OLD CARRIERS YET

(By Michael Vlahos)

Two mighty carriers steam in circular patrol in the Arabian Sea, just south of Iran. The incarnation of deployable power, they seem the ultimate conventional weapon, the premiere "big stick." But one of these leviathans is running on half-power, and exhaustion has severely cut its ability to launch aircraft. Until a replacement arrives, the US carrier task force off Iran will be incapable of round-the-clock flight operations.

The critical vulnerability of America's big carriers to overexhaustion is but a reminder of our stretched naval assets. Yet we have immediate resources—the Lexington and four other carriers of the faithful old Essex class—if we would only restore them to service.

This nation for 35 years has leaned on the carrier to buttress its crisis diplomacy. Carriers have been needed, again and again, to support and defend our alliance system. Off Korea, in the Mediterranean, along the North Atlantic lifeline, US carrier task groups have held together the sometimes fragile network of Western security.

In recent years, the Young Turks have increasingly attacked the big aircraft carrier as a vulnerable, expensive, imminently obsolete weapons system: a kind of naval saurian whose time has passed. Just as fashionable has been the thesis that the big carrier represents nothing more than a tool of and an incentive for US imperialism.

In spite of public and professional assaults, no one has been able to discover an effective replacement. Together, four US carriers equal, in sortie equivalents, the punch of something like the entire French Air Force.

Today, the US Navy sustains both the global interests and the oceanic lines of communication that bind the American system with fewer capital ships than at any time since 1903.

Today, usable US power projection capabilities are entrusted, and limited, to a handful of great ships: an overworked, aging, and very tired "dirty dozen." With only 12 stretched thin across the world ocean, we are already at our deployment limits.

We can only afford two carriers off Iran. What if high-intensity air operations over Iran or Pakistan were needed tomorrow? A US intervention force to the Persian Gulf needed full and immediate air support? Active air intervention by a "third party" required an instant reinforcing of US strike and air defense assets at sea?

In 1950, when the curtain rose in Korea, the US was able to pull carrier after carrier out of mothballs and hurl them across the Pacific. Now we have no modern carriers in reserve. We have no up-to-date "surge" capability. If we needed more striking power off Iran and Pakistan, and the kind of air defense to keep a certain continental air force at bay, we would have to strip our carrier battle groups on other stations. With trouble brewing on the border of Thailand, and more ready to boil in Korea, our *deployable* power projection forces, in the form of the aircraft carrier, are stretched beyond the limit. We simply do not have any more big carriers that we can haul out of Philadelphia or San Diego, the way we did in 1950, to beef up our thin grey line at sea.

There is, however, the Essex-class alternative, the Old Guard. Five Essex carriers still remain, sealed up and all but forgotten. They are old, but only as old as the Midway, now off Iran, and they, too, were modernized several times in the 50s and 60s. They might creak a bit, but they can steam at high speed, and they can handle modern combat aircraft.

The Oriskany, Lexington, Bon Homme Richard, Intrepid, and Shangri-La. Loaded with light attack aircraft—either Marine A–4s still in the inventory, or A–7 Corsair IIs—could each handle five attack squadrons, or some 60 aircraft. They would enlarge and extend the power of the standard carrier battle group, with which they might operate. Then the big carriers, freed of their light attack squadrons, could increase their embarked strengths in fighter and all-weather attack aircraft by 50 percent. This would give a Forrestal-size carrier the capability to tangle with a high-intensity air threat.

This is not simply another "quick-fix." The Essex class could be pulled out of reserve and into the line within a year, but they would not be expected to hold the line forever.

There would be problems, of course. The ships are undeniably old. They could not be pushed too hard or too fast. They would have to be rotated frequently. To cover the shortfall in fighter aircraft needed for an expanded carrier force, F–14 production would have to be pushed. Immediately. But officers in the US Navy are confident that carriers of the Essex class, which served so valiantly off Japan, Korea, and Vietnam, have another five to seven years of life left in the tough hulls.

We need them. And we don't have five years to waste.

[From the Washington Post, Mar. 17, 1980]

NEW LIFE FOR BATTLESHIPS?

Restoration of mothballed battleships is a sound idea that will significantly benefit our Navy. Daniel Greenberg's contemptuous criticism [op-ed, March 11] mistakenly asserts that the idea is due only to old battleship admirals' nostalgic desires.

The fact is that a revitalized battleship will be a superior fighting platform. Modernization to permit arming them with cruise missiles and short-takeoff aircraft will add massive firepower sorely needed in our shrinking fleet today.

Another significant advantage these restored superships will have is in showing the American flag in the ports of Third World nations. Their impressive proportions and bristling firepower present an awesome show of naval strength—a consideration that, by the way, Soviet naval planners always include in ship design.

Lest this endorsement of the demothballing idea be attributed to a "nostalgic battleship admiral," be advised that I am a naval aviator and carrier pilot.

AIMO W. HILL, Jr.

ANNAPOLIS.

I suppose it was only a matter of time before Daniel Greenberg got around to taking the battleship admirals to task as he did in his column "Mothballs Aweigh." He planted the seed in his column "Mammoth Ships: A Social Issue" [op-ed, Aug. 22, 1978], when he did the same thing to the carrier admirals.

He belittled the aircraft carrier by calling it a "plus recreational vehicle." It is not. He belittles the battleship, having scant sense of its many capabilities in an era that he would have us believe is too dangerous for a big ship to take to the sea. If danger be a governing factor, no one should ever depart terra firma, because even routine peacetime operations at sea are fraught with danger.

Now in defense of battleships: Acknowledging that they are large and costly, they are versatile and powerful platforms. Armed with the omnipotent 16-inch rifles and modern missiles, they would be an awesome weapon system for projecting power ashore or at sea. After the proposed refit, a battleship would have the capability of delivering Marines ashore and providing them with accurate heavy gunfire support. A proper missile suit would afford a long-range offensive capability and a strong defensive one at shorter distances. The battleship hull is the most invulnerable one our marine engineers have sent to sea.

There is another capability that cannot be ignored. When it comes to showing the flag, a battleship has no peer. That was made abundantly clear to me by citizens of the Mediterranean and Far Eastern areas during my deployment there, a time span encompassing in excess of 20 years.

There are many who believe that to return these great ships to service might well persuade friends and foe alike that the United States has reawakened and is ready to look zealously to its interests once again.

ROBERT C. PENISTON,
Captain, U.S. Navy (Ret.).

LEXINGTON, VA.

Mr. SCHMITT. I was pleased to learn that last week the House Armed Services Committee voted to take the aircraft carrier *Oriskany* and the battleship *New Jersey* out of mothballs. This clearly is a step in the right direction, and I hope that our Senate colleagues will take due note and support that action.

Recently the Senator from New Hampshire (Mr. HUMPHREY) informed this body of the Navy's proposal or suggestion that 8 of the 10 Polaris submarines be converted to carry submarine-launched cruise missiles (SLCM's). This proposal would provide for a substantial force multiplier at a reasonable price and within a short time frame. The alternative to this proposal is to mothball or dismantle these submarines at the same time we are experiencing a severe shortage in vessels.

As the land-based ICBM force experiences a period of vulnerability during the 1980's, which I covered in my remarks yesterday, we will be more dependent on our sea-launched ballistic missile (SLBM) force. Yet, this leg of our triad is the least flexible and experiences the most problems in communications, command and control (C^3). Currently, our submarines must come close to the surface, increasing their vulnerability, to receive any communications. These subs were designed to move quickly and quiet-

ly at lower depths to insure their safety. Yet, we have not provided a communications system which would reenforce the strengths and invulnerability of our SLBM's rather than weaken them. For years we have postponed moving ahead with the extremely low frequency (ELF) system for improving and assuring communications with our ballistic submarines and to avoid risking their safety in times of crisis. It is time we move ahead with ELF, or at least an important modification of that system.

While the administration is proposing a rapid deployment force, with prepositioned ships and a new cargo plane—the CX, this does nothing to solve our shortfall in both air- and sea-lift capability until the mid-1980's, at the earliest. No proposals are forthcoming on what we do in the meantime. In the area of airlift capability, we can procure wide-bodied freight aircraft right now, which can operate into many of the areas of the world where we have national interests at stake, not to the degree proposed by the new CX aircraft, but, nevertheless, to an important degree.

These wide-bodied planes can be delivered in as little as 16 months. While this would not solve our problem of transporting out-sized cargo, or cargo to remote or small airfields, it would relieve pressure from the existing fleet.

There even are some questions of whether outsize cargo would ever be used in the course an immediate, rapid deployment force.

The cost would be minimal since these aircrafts could be sold when the CX is deployed. Used wide-bodied aircraft today are selling for more than they were purchased for in almost all cases.

Mr. President, the list goes on and this Senator realizes that we cannot do everything at once. What is troubling is that we are not working on any of these "quick fix" programs. Instead, we are relying on the long-term MX to take care of the ICBM vulnerability problem in the late 1980's, we are relying on the CX to take care of our airlift shortfall in the late 1980's; we are relying on a ship building program, that has been consistently postponed, to take care of the shortfall of ships to protect our convoys; we are relying on a proposed new bomber in the 1990's to replace planes already 25 years old; and we are relying on new technology which will not be available until the next decade. What are we going to do about the threat in the early and mid-1980's, a threat not only to our national defense, but to the conduct of our foreign policies?

This Senator strongly supports research and development and new technology in the defense arena. At the same time, however, we must have equipment which we have already developed and which is adequate in the field. The most advanced weapons serve no purpose in the laboratory, no purpose to the immediate conduct of foreign policy and the defense of the Nation. The time has come to pursue research and development vigorously, while we procure and deploy equipment and weapons. We must focus our R. & D. and procurement budgets on the type of weapons which will effectively neutralize Soviet quantitative lead in weapons systems.

If we can make 30,000 Soviet bloc tanks obsolete, and I believe that we can, then that is what we should do. I am referring to the advanced technology weapons such as AWACS, the Copperhead and Patriot.

Mr. President, the easiest "quick fix" is to increase the procurement of weapons in the fiscal year 1981 budget. Increasing the rate of procurement of equipment and weapons would not only get more equipment into the field more quickly, but would save money in the longrun. It would also demonstrate to our allies and adversaries alike our commitment to the defense of our security and our national interests and those of our allies.

I urge my colleagues, Mr. President, particularly those on the Committee on Armed Services, the Appropriations Committees, and the Budget Committees of both Houses, to carefully consider these "quick fix" proposals. The solutions to today's problems must come today. We cannot wait for tomorrow.

ORDER OF PROCEDURE

Mr. PROXMIRE. Will the Senator yield?

Mr. President, how much time does the Senator have remaining?

The ACTING PRESIDENT pro tempore. The Senator has no remaining time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time which I yielded back under the order may be retrieved by me at this time.

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

Mr. ROBERT C. BYRD. I yield such time as the Senator may need.

Mr. PROXMIRE. I thank the distinguished majority leader.

ETHIOPIA: ANOTHER NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, a recent article in the Los Angeles Times reported that Ethiopia, in an attempt to quell the unrest in its troubled Ogaden region, is driving out the native Somalis and replacing them with Ethiopians. This brutal campaign, which includes such tactics as poisoning waterholes, strafing villages, and attacking them by air with napalm has been quietly underway for the past 6 months. The result of these tactics is reportedly thousands of casualties. These are added to an already long list of people killed since 1944, when Ethiopia was given sovereignty over the Ogaden by Great Britain.

Mr. President, these killings may well constitute yet another example of genocide.

But why, Mr. President, why? Where are our convictions? Is there nothing we can do?

The answer is a resounding yes.

For the past 30 years, there has been pending before us a treaty aimed at preventing the elimination of racial, ethnical, national, and religious groups—the Genocide Convention. This treaty stands awaiting action by the Senate. And while we have delayed its consideration, millions of people have died without reason—many brutally slain. Is it not our duty to ratify the only international treaty which can strengthen our hand in preventing this most horrible and destructive of all crimes?

Mr. President, we must speak out on behalf of the millions of innocent people who have been murdered. We must take concrete action to let the world know where we stand. We must ratify the Genocide Convention.

Mr. President, I ask unanimous consent that the text of the Los Angeles Times article be printed in the RECORD.

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

EFFORT TO DEPOPULATE OGADEN ALLEGED

(By David Lamb)

MOGADISHU, SOMALIA.—Unable to pacify the Ogaden region, Ethiopia has launched a campaign to depopulate the war-ravaged wasteland, driving out the ethnic Somalis and replacing them with Ethiopians, according to refugees and diplomatic sources here.

For six months the Ethiopians, backed by Cubans and East Germans, have been poisoning and bombing waterholes, machine-gunning herds of cattle and strafing villages, the sources said. At least twice, they said, napalm has been used in air attacks on civilian villages.

The new tactics reportedly have resulted in thousands of casualties and helped swell Somalia's refugee population beyond a million. But they do not appear to have weakened Somalia's resolve to reunite all ethnic Somalis under one flag. The Ogaden, an Ethiopian province, was once part of Somalia and is inhabited mostly by Somalis.

"The Russians and Cubans are the ones who chased us out of our motherland," said a recently arrived refugee, Dol Aynashe. "Without them, the Ethiopians are nothing. One day we will return to the Ogaden."

In July, 1977, Somalia launched a major attack across the Ethiopian border and into the Ogaden in support of guerrillas from the Western Somali Liberation Front who had been fighting in the region since 1962.

The Somalis quickly drove 700 miles through the Ogaden. They seemed assured of victory until the Soviet Union abandoned the Somali government and poured $1 billion in weapons into Marxist Ethiopia. About 1,000 Soviets and 17,000 Cubans are still in Ethiopia.

Since the Somali regulars pulled out of the Ogaden in May, 1978, leaving the guerrillas to continue the war, about 60,000 people have been killed there, including 25,000 civilians and 6,000 Cubans, according to Arab diplomats here. But the guerrillas have regained control of the countryside, and the Ethiopians and Cubans are restricted mostly to the towns and main roads, intelligence sources said.

"The enemy can capture any of our base camps if they are prepared to pay a high enough cost," said Mohammed Mussa, a member of the liberation front's central committee. "But they can't hold them." Finally, in the end, they are always forced to withdraw.

"Our fighters are everywhere. We know the land better. The people are our people. Our losses are minor compared to the enemy's. Militarily, the Ogaden is a stand-off now. It's a war of attrition."

The liberation front, whose forces number about 20,000, fights mostly with captured

weapons, including some old British Enfield rifles. It receives no overt support from any nation except Somalia, but is believed to have received some back-door assistance from Egypt, Saudi Arabia and Iraq.

Western military sources in Mogadishu said that Cuban and East German pilots in Ethiopia fly many of the missions and also man some of the T-54 and T-55 tanks. Ethiopia is equipped with American F-5 fighters as well as Soviet MIG fighters. Its militia and regular forces, numbering 200,000 men, make up the largest fighting force in Black Africa.

In the last six months, neutral Arab sources said, Ethiopia has been recruiting ethnic Somalis in Kenya and Ethiopia and has formed them into what is known as the Somali Salvation Front.

The front is dedicated to the overthrow of Somali President Siad Barre, 60, an Ogaden-born former policeman who came to power 11 years ago in a nearly bloodless coup.

Ethiopia's attempt to depopulate the Ogaden of ethnic Somalis is evidently designed to deny the liberation front the popular support it now has. The Ethiopian government has nationalized all camel and cattle herds in another effort to destabilize the nomadic Somali population.

The Ogaden war has dragged on, in varying stages of intensity, for 400 years. British colonial authorities gave Ethiopia sovereignty over the Ogaden in 1944. Other parts of Somalia were carved up among the French and the Italians and Kenya, which was then a British colony.

Siad Barre said not long ago: "The whole population of the (Ogaden) region . . . are the sons and daughters of the soil.

"The proper and just solution is to let these people have the right to choose the sort of government they want."

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, without prejudice to the orders that are yet to be completed.

The ACTING PRESIDENT pro tempore. There being no objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, without prejudice to the orders that have been entered for recognition of Senators, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 10 minutes and that Senators may speak therein.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECOGNITION OF SENATOR BENTSEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of Mr. STENNIS, I understand that he will not be using it today, be transferred to Mr. BENTSEN, if he should so desire to use it.

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

Mr. BENTSEN. I thank the distinguished majority leader.

THE COMPLEXITY OF OUR ECONOMIC PROBLEMS

Mr. BENTSEN. Mr. President, I say to the majority leader that the prime rate went to 20 percent this morning. That is what the Chemical Bank set it at this morning.

Month after month, evidence of the scope and complexity of our economic problems becomes more compelling. Our economy appears to be out of control; our problems seem to thrive on the remedies designed to combat them. As a result of our inability to develop a comprehensive, coherent strategy to overcome our difficulties and restore real growth and stability to the economy, we sense an uneasy feeling that America is no longer master of its economic destiny.

Throughout most of our history, this Nation has been able to sustain the vision of a better tomorrow. We have been able to offer our people the freedom of opportunity—the chance to build a brighter future for themselves and their children. For the blue-collar worker in an urban area who saw the real purchasing power of his wages decrease by 7 percent last year—and sees no relief in sight this year—it is becoming increasingly difficult to believe in the American dream.

We have the lowest rate of savings of any industrialized democracy. After years of priming the pump, we have been forced to pump the prime to 20 percent. Tight money policies have turned the dream of home ownership into a nightmare for millions of our people. Massive and frequently inefficient Government regulation fouls the gears of our free enterprise system and diverts scarce resources from more productive use. Productivity in this country is declining. Our tools of production are increasingly outdated and we are in danger of becoming uncompetitive in major world markets. We have rung up a $60 billion trade deficit over the last 2 years, with little relief in sight.

We used to laugh about 18-percent inflation when it occurred in other nations and despair about the ability of those countries to manage their economic affairs. Today, 18-percent inflation has become a brutal, compelling fact of life in this country; it raises serious and legitimate doubts about our economic future.

The anti-inflation policies put forth to date by the administration are a commendable effort to restore some sense of order to our financial markets and will eventually bring current, sky-high rates of inflation down to more manageable levels. These policies will not, however, lower the hardcore, underlying rate of inflation that is the bedrock of our current economic difficulties. They will prove ineffective against the hardcore rate of inflation because they treat the symptoms and not the root causes of the disease.

With the exception of the drive toward a balanced budget, our anti-inflation policies fail to address the basic question: Why do we have inflation in America?

A balanced budget, Mr. President, is clearly an idea whose time has come. It has come rather late in the game, but at least it has arrived. The administration has proposed it, the Congress strongly supports it, and the American people demand no less.

It is not going to be a simple or painless process, but I believe this country will have a balanced budget in 1981. After running up a $240 billion deficit over the past 5 years, balancing the budget will have an enormous and favorable psychological impact on our economy. It will provide a welcome signal that we are serious about our economic problems.

Balancing the budget, however, is no magical potion to cure the plague of inflation. The real question, Mr. President, is what we do after we balance the budget. How do we use the springboard of fiscal responsibility to restore growth and stability to our economy?

The first point I would make in this regard is that we must keep it balanced, year after year, for the rest of the decade. One year of discipline is hardly enough to overcome a decade of living beyond our means.

One little-noted benefit of a balanced budget is that it gradually relieves Government borrowing pressure on the credit market. This year alone, Mr. President, the Government must refinance over $200 billion in debt from accumulated past deficits. By any standard of measurement, that is a lot of debt to refinance. It cannot help but force up interest rates. By balancing the budget year after year, we will slow to zero the rate of growth of Federal Government demand for credit and interest rates will eventually come down.

While I welcome and support initiatives to limit credit in our economy, it has become apparent that the effectiveness of credit control and tight money policies has been diminished by the

existence of external sources of finance—Eurodollars in foreign markets—that are largely beyond our country's control.

Although multinational corporations are now being asked by the Fed to report their Eurodollar borrowings, large multinational corporations, with direct access to the Eurodollar market, enjoy a measure of immunity from policies of credit control. With this leakage in the system, when the Fed moves to tighten the screws on credit, it is forced to clamp down even harder on sectors—like small business and housing—it can control.

For over a year, we have asked the Fed to shoulder almost the entire burden of our anti-inflation strategy, and the process has not worked well. The adverse impact of Eurodollars on the potential effectiveness of credit controls highlights the danger of overreliance on monetary policy as the primary weapon on the war on inflation. This narrow approach to our problems is decreasingly effective, encourages a boom and bust cycle in the economy, and has minimal impact on the underlying causes of inflation.

I also suggest that we cannot and need not accept a major recession as the price for curing inflation. The costs, in human and economic terms, are both unacceptable and unnecessary. A major recession is totally inconsistent with balanced budget policies. During the 1974–75 recession, we had the largest budget deficit in our history. We have seen that in times of recession there are inevitably moves in Congress—generally successful—to spend our way out of economic hard times. These programs lead to increased Government spending, increased demand in the system, and eventually—as we have seen—to increased inflation. They encourage the very problem we set out to combat.

During the decade of the eighties, America need not fight inflation by pulling up the drawbridge with recessions that doom millions of our people to unemployment. We must, instead, embark on a new era of economic thinking. We must develop a balanced program that lowers inflation without creating higher levels of unemployment. And the key to that process is steady economic growth, fostered by gains in productivity and a stable fiscal policy, and accompanied by a gradual reduction in the growth of the money supply over a period of years.

As we balance the budget and realize substantial reductions in Government spending, we will also be able to cut taxes. For many years, the conventional economic wisdom—the balanced budget multiplier—held that if you cut taxes by $10 billion and reduced spending by $10 billion, GNP would be decreased by $10 billion.

We now have a new economic model that clearly demonstrates the absurdity of that thesis.

This model, prepared by Otto Eckstein and featured prominently in this year's JEC report, demonstrates that lower spending and lower rates of taxation create incentives for investment and savings in our economy. More savings and investment, in turn, lead directly to higher rates of productivity, increasing employment, and a higher GNP.

With this breakthrough in econometric modeling, we can now demonstrate what some of us have long suspected: that tax cuts do not necessarily equate with Government deficits. In the process we have opened up a whole new approach to the root causes of our economic problems. A tax cut oriented toward the supply side of our economy will encourage business to invest more capital in more modern means of production. That investment produces a more efficient American economy with higher levels of productivity and lower rates of inflation. And we do not have to contemplate a budget deficit as the price of progress.

It should also be apparent, Mr. President, that these are precisely the policies—increased investment and higher rates of productivity achieved in the absence of inflation—that will enable America to compete more effectively in the vital and highly competitive world of trade. I would further suggest that any rational, comprehensive strategy to combat inflation must focus on removing obstacles to American exports, such as sections 911 and 913 of the Tax Code, while encouraging the formation of effective U.S. trading companies and consortia able to bid on major contracts. We must also insure that American business enjoys equal access to foreign markets and remain alert to unfair trade practices that can quickly rout and destroy important domestic industries.

The area of trade policy and export competitiveness is one in which I plan to remain active because I am convinced that our policies of the past have contributed to the hemorrhage of dollars abroad that debases the value of our currency and inhibits our ability to deal with inflation.

We can also combat inflation and increase productivity and future employment opportunities. We should be training people for jobs that will exist—for jobs in dynamic, expanding areas of the private sector.

All too often in the past we have set out to create jobs—to crack hard-core unemployment—by stimulating the entire economy. That strategy proved to be highly expensive, highly inflationary, and generally ineffective. We have seen that it is much more cost-effective and far more rewarding to train people for private sector jobs.

As we move to adopt tax policies to encourage investment in more modern and efficient facilities, we must also assure that we have the trained manpower to operate the new machines. We should be looking now to identify areas of our economy, in the private sector, that will be most responsive to tax incentives and will emerge as our vital high technology industries of the future. To the extent that we can have people trained to step into these new opportunities created by tax policy incentives, we can avoid labor bottlenecks, and provide steady, meaningful employment opportunities.

Regulatory reform can also play an important role in our effort to combat inflation. We can decrease the $100 billion cost of complying with Government forms and regulations by making our regulatory process more cost-effective. In the process, we free up scarce resources for use in more productive economic activity.

I am not suggesting that we reduce the benefits, the health and safety advantages, of regulation. I would, however, submit that we can decrease the economic drag of regulation by billions of dollars a year—without sacrificing benefits, without increasing unemployment—by emphasizing the requirement for cost effectiveness and accountability. All of us are committed to reducing waste in Government spending; I think we should develop a parallel and equally profound commitment to eliminating waste and overlap in the amount of money the Government forces its citizens to spend in complying with its dictates.

Finally, we can all agree that energy plays a key role in our current economic difficulties. If we could return to the days when oil was available in abundance at $3 per barrel, this country would still have economic problems. But I think we can agree that they would pale in comparison with our difficulty today.

So the problem of increasing energy costs is vital, and there is no sound reason to expect that it will become less onerous. Even with a maximum effort at conservation, even with increased incentives for domestic production and an all-out effort to develop alternative energy sources for the future, there is every reason to assume that the cost of energy will continue to rise at least throughout this decade.

There is only one way, Mr. President, to absorb higher energy costs without higher inflation. And that is to increase productivity in our economy. Increased rates of productivity are the only known antidote to higher costs induced by higher energy prices. In recent years, we have seen our trading partners, like West Germany and Japan, prosper in the era of the OPEC cartel, and these nations are far more dependent than we on expensive imported energy. The secret of their success is not hard to determine: it is rapidly increasing rates of worker productivity, fueled by incentives for investment in modern plant and equipment. By making their economies more efficient, nations like Germany and Japan have been able to cope with rising energy costs. Our economy, with productivity on the decline, has actually magnified the impact of the energy problem.

By constantly searching for easy answers to difficult problems, through our long-term fascination with the economics of demand stimulation, and by refusing to face up to the root causes of our problems, America has staggered into an extremely dangerous and difficult economic situation.

It will take time, discipline, and sacrifice to recover. We have the resources to do the job. The ingredients for our future

success are in place, and we are finally moving to put them together.

If we can balance the budget and keep it balanced, get the Government out of the credit markets, enact supply-side tax cuts that will provide incentives for investment and savings—if we can increase productivity, resist the impulse to stimulate demand, make regulation more cost-effective, match job training with job opportunity, and hold down Government expenditures, we can lower inflation without creating higher levels of unemployment. We can beat inflation without recession.

As we succeed, we will see a new confidence and vitality return to the American economy. We will see the return of stability and real growth. We will regain control of our economic destiny and build the sort of America that can look with confidence to the challenges of the eighties.

Mr. President, I see my good friend, Senator STEWART here, who is deeply concerned about these difficult economic problems and has helped to play a leading role in trying to find new answers to them.

I yield to him now.

RECOGNITION OF SENATOR STEWART

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama is recognized for not to exceed 15 minutes.

Mr. STEWART. Mr. President, I yield the time previously set aside for me to the Senator from Texas for his control and shall proceed on his time.

The ACTING PRESIDENT pro tempore. The Senator from Texas had 15 minutes remaining on his own. So now he has 30 minutes.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. STEWART. I thank the Senator for yielding.

THE ECONOMY

Mr. STEWART. Mr. President, when the Fed took steps to tighten monetary policy on October 6, I viewed the higher interest rates as a necessary and temporary medicinal solution designed to cure our ailing national economy of its inflationary ills.

The information that was provided me by my colleague as to the rate of interest, the prime rate going to 20 percent at this time, I have some cause for concern about my feelings on that rate.

I wish to associate myself with the remarks that have been made by the Senator from Texas in connection with what our economic policy should be and congratulate him for the fine work that he has done in this endeavor.

Since October, steps that were taken by the Fed on that date, the prime rate has soared and, as he has indicated, is a rate now of 20 percent.

While we all suffer from the effects of inflation on our economy and we all, therefore, must make certain sacrifices to bring inflation under control, the small business owners, farmers, and home builders are, in my opinion, being asked to shoulder a disproportionate share of the burden in the fight against inflation under our present economic policy.

Small businesses, in the best of times, have difficulty raising capital. Now, even if they can afford to pay the skyrocketing interest rates, it is unlikely that they will find financing available.

These are the very businesses that currently account for one-half of the Nation's total business output, over 50 percent of all private employment and over 50 percent of the most significant innovations have come from small business since World War II.

Their inability to raise capital is certain to result in increased unemployment, particularly among lower skilled and lower wage earners and a reduction in the innovation so desperately needed to increase productivity.

A task force, headed by Senator GAYLORD NELSON from Wisconsin, is presently attempting to deal with the problems that are experienced by small business, but the one that I am speaking about today, the high interest rates, is one that is going to take the help and support of all of the Members of Congress and the Senate.

Our housing industry, too, is facing one of its worst years in recent history. Previously, 1975 was considered a tough year for housing. But the single-family starts for February were only slightly above the single-family starts for the first quarter of 1975, and the outlook for the remainder of the year is bleak.

Projections indicate that starts are likely to reach only 1.1 to 1.2 million units in 1980 and could well fall below even those disastrous figures.

After being in a housing subcommittee meeting this morning I can tell the world, frankly, that those figures are going to fall below the 1.1 or 1.2 million units in 1980 unless something is done to rescue that industry.

We all know that when interest rates are increased the housing industry is the first to feel the impact and suffers the most. Yet, we continually rely on monetary policy as our only and our first line of defense against inflation and as a result of that dependence on the monetary policy we actually create housing slumps which add to the disastrous economic situation we find ourselves in.

While creating a housing slump may reduce inflation, it makes little sense to me in the long run. Rapid and severe swings in the housing sector are both costly and inefficient. When plant and equipment are not utilized, idle capacity is created and workers are not employed. In addition, reducing housing production does not reduce demand. Thus, pent-up demand created in downswings exerts upward pressures on prices as the economy recovers. I, therefore, believe we must implement an emergency GNMA tandem plan to rescue our troubled housing industry. This measure will assist the housing industry and will help to prevent a severe recession. In addition, by the time this measure can become effective, the housing industry will be in a very desperate situation. Moreover, when implemented in the past, the emergency tandem plan was effective in achieving its goal and ultimately cost the taxpayers only $400 million for $6 billion in loans. I am not, therefore, advocating a major new, untested spending program.

And although I feel adament that we need this program, I strongly endorse a balanced Federal budget. Pursuing our present economic course, unaltered, will result in grave consequences in the next year. We simply cannot rely exclusively on monetary policy to bring inflation under control. Doing so will surely lead us into a severe recession, which I believe is unacceptable—and avoidable.

We must assist the Fed in its anti-inflation policy by balancing the Federal budget in 1981 and each year thereafter. We must foster increases in productivity which will result in steady economic growth. We must rationalize fiscal policy. We must cut Government spending and redtape which increases costs for all of us.

We must reduce inflation and get our economy on track again but we also must insure that certain vital sectors and industries are not wiped out in the process. Halting the inflationary spiral by devastating the farming, small business, and homebuilding sectors of our economy is worse than the disease. This scenario certainly is creating a cure that so far is still avoidable. We can cure inflation without a major recession. We have the tools at our disposal.

In the housing subcommittee this morning we were told by representatives from the housing industry that a 3-percent bankruptcy rate in that industry would cost the budget some $5.9 billion in revenues, and they went on with some other figures that I could add here, but I will submit later for the record, that paint an even more dismal picture.

I believe that we must implement an emergency program here in Congress similar to what has been done in the past to rescue our troubled housing industry.

This measure will assist the housing industry and will help us to prevent a severe recession which is now projected by those who apparently want one; they want difficulty to be experienced by the housing industry that is worse than the one that we experienced in 1974 and 1975.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. STEWART. I yield to the Senator from Louisiana.

Mr. LONG. May I say to the very able Senator from Alabama that we must not have a recession.

When I first came to the Senate, Harry Truman made his first state of the Union address as a man who had been President and then had been elected President,

having become President by the death of his predecessor. And I recall his first state of the Union message. He said depressions are man made and men of good will can prevent them.

The same thing should be true of a recession. A recession is just a not so deep depression.

And there has to be better ways to fight inflation than to close down the whole housing industry, put all of those people out of work and put this Nation in a depression or a recession which will cost the Nation billions of dollars of production and reduce the income of all the American people by tens of billions of dollars, perhaps as much as $50 billion to $100 billion and put millions of people out of work.

Now the less we produce the less we have to share among ourselves and the less revenue Government will have.

Here we are trying to balance the budget.

I ask the Senator is this not correct: If we are going to put another million or 2 million people out of work there is no way we can balance the budget.

Mr. STEWART. Of course, I will respond to the Senator in this fashion. It has been indicated to me that 1 percent of unemployment, and I assume that 1.6 million figure that I heard to be unemployed if we close the housing industry down would fit into that category, I am quite sure, would bring about or would cause $20 billion addition to the budget deficit, and that is figured in a number of ways, loss of revenues and what you have to pay out to those people.

But I agree with the Senator that that is the wrong approach to take.

I also point out that if we do not meet this year's housing demand, projections are that it will continue to grow and once rates do come down and business starts back up and we have short supply, tremendous demand, and increase in prices, it starts the cycle over again.

So it just does not make sense.

Mr. LONG. I thank the Senator.

Mr. STEWART. I encourage Members of the Senate to join with those of us who feel that something needs to be done.

We are working now on a task force that is under the leadership of the chairman of the Subcommittee on Housing of the Banking Committee that was appointed by the majority leader of the Senate on a program that will be aimed at increasing the number of housing starts, keeping in mind, of course, the balanced budget concept that was spoken of by my good colleague from Texas, and a program that I strongly endorse.

But pursuing our present economic course unaltered will result in grave consequences not only this year but in the next year, and I do not believe we can rely exclusively on monetary policy to bring inflation under control.

I feel we must assist the Fed in its anti-inflation policy by balancing the budget in 1981 and each year thereafter, but we must do what is necessary to keep those sectors of our economy that are productive. The housing industry is one of those, and I could mention others. But that is what I wanted to stress here today.

I want to say that I look forward to following the lead of the Joint Economic Committee in putting aside our party loyalty and working together to achieve common goals. Under the chairmanship of my good friend Senator BENTSEN, the members of that committee have once again issued a unified report recommending policies to fight inflation without creating a recession. If the diverse membership of that committee can agree on economic policy for the Nation, then I feel confident and inspired that we, too, can achieve the difficult task before us, and I want to commend my colleague for the fine job he has done.

Mr. BENTSEN. I thank the distinguished Senator from Alabama for his contribution and his concern and his perception.

I would like to yield now for such comments as the Senator from Connecticut wishes to make.

Mr. RIBICOFF. Mr. President, I appreciate the time allotted to me by the distinguished Senator from Texas.

Mr. President, I welcome the attention being paid this morning to our Nation's economic problems. The Senator from Texas is right: This country does need a comprehensive, coherent economic strategy. Mr. President, the Senator from Texas has played a significant role in getting to the root causes of our economic challenges, and he deserves credit for that accomplishment. As a member of the Joint Economics Committee I commend his leadership. Senator BENTSEN has oriented the work of this committee toward the core issues of productivity, inflation, and the ability of the United States to compete in the world. He has made its reports understandable, policy-oriented, constructive and relevant. Senator BENTSEN has brought the Joint Economic Committee into the realm of current economic challenges, and for that we are indebted to him.

Mr. President, I have been concerned with the need for a comprehensive, coherent economic strategy from the prospective of international trade. I have long said that "ecopolitics" is replacing geopolitics in the affairs of nations. Economic power is necessarily the equal of military power in a world of economic interdependence. It bothers me that the United States shows signs of economic weakness. We cannot provide leadership for the international economic system if we lack economic strength at home. The United States must support a healthy international monetary system, a fair and expanding international trade framework, and a serious effort to include the nations of the Third World into the world economy. We have backed the efforts by the International Monetary Fund to absorb the shocks of balance of payments disorder. And recently we accepted the provisions of the Tokyo round of trade negotiations to reduce nontariff barriers to international trade. But, as the Joint Economic Committee has documented, our productivity growth rate during the past decade has been stagnant.

Poor productivity performance takes away a valuable assist to our economy. Productivity increases can offset inflation, they can add confidence and direction to our investment, and they can assist our effort to stay in the lead of producing and selling technologically advanced goods. We are lacking that assistance now, and we need it.

Mr. President, I have joined with Mr. William Batten, president of the New York Stock Exchange, and with Dr. Henry Rosovsky, dean of the faculty of arts and sciences at Harvard University to sponsor a conference at Harvard at the end of this month. We will bring together some leaders of major U.S. corporations, some leading academic authorities, and several members of the International Trade Subcommittee to consider how the United States can remain competitive. I am pleased that Senator BENTSEN will address the plenary session of that conference. Our purpose at Harvard will be to focus attention on a problem which poses serious, new policy challenges for us. We must face them in a bipartisan spirit. We have to draw upon labor and business, Government and academia, the legislative and executive branches, and the media, to go back to the simple basics and understand why the United States is not increasing its productivity.

We have to face the consequences of losing major markets in computers, business machines, aircraft, and other technologically advanced products if we cannot compete. In sum, we all need to go down and have a look at the engine room and take a sober assessment of its problems. We cannot continue to sail along believing that all is well and that we can accept the consequences of economic weakness without harsh realities down the road. We can be proud of the achievements in our economy and of the extent to which they have been shared throughout our society. And now all of us have a stake in restoring America to the front ranks of economic competitors in this interdependent world.

Mr. BENTSEN. I thank the distinguished Senator from Connecticut. I am particularly appreciative of the leadership he has continued to show, through his career in the Senate, in recognizing the need for the United States to remain competitive in world markets and for helping to set up the seminar in Harvard with some of the most distinguished academicians from around the country, some of our top economists, who will be making their contribution, and the fact that he will be helping to chair that conference is I think a major contribution.

I would now like to yield to my distinguished friend Senator BAUCUS.

Mr. BAUCUS. I thank the Senator from Texas.

Mr. President, we face a crisis. Inflation rates are at 20 percent. Interest

rates are reaching 20 percent. It was not too long ago that we Americans thought that high inflation rates and high interest rates were maladies that beset other countries, not us.

Here we are in 1980 faced with a 20-percent interest rate and a 20-percent rate of inflation. If present trends continue, these rates are going to get worse.

What has happened? Well, not much has happened. The administration and the Congress have not, in my judgment, fairly, squarely, and directly addressed economic issues. We have a few cosmetic approaches, a few bandaids, a few bromides, but we have not addressed the root causes.

I must say, Mr. President, that the Senator from Texas and chairman of the Joint Economic Committee is performing a very commendable task here in calling our attention to the Nation's serious economic problems.

He mentioned one issue I would like to focus on, and that is balancing the budget. The country has been asking for a balanced budget for a long time. Business leaders have asked for a balanced budget. Housewives and heads of households have asked Congress to balance the budget. Lately, the Congress has agreed that, yes, there should be a balanced budget.

But what do we do from here? I think we should utilize the balanced budget as a springboard to maintain and build a healthier economy for the 1980's.

Now, Mr. President, it will be relatively easy to balance the budget this year. Everybody wants to balance the budget.

The real challenges will come in 1982, 1983, 1984, 1985, and on through the 1980's.

Times are going to change. Interest rates might come down a little bit. The inflation rate might come down a little bit. The tension might ease, and there might again be great temptation to pass deficit budgets that could leave us with worse problems than we have today.

Some economists are saying that a balanced budget will only reduce inflation by two-tenths of a percent or four-tenths of a percent. I suggest that the psychological effect of a balanced budget will have a much greater effect in reducing inflation.

I suggest, Mr. President, after we balance the budget that we also set up a mechanism to assure that we have a balanced budget in the next years of this decade.

I encourage my colleagues who are concerned about the economy to join me as cosponsors of the Fiscal Responsibility Act which I have introduced.

My legislation would establish three basic procedures to prevent deficit spending and growth of Federal expenditures and taxes.

It is difficult for Congress to enact a balanced budget when our starting point is a deficit budget. My bill would require the President each year to propose a balanced budget to Congress in which neither Federal spending nor revenues exceeded 21 percent of the gross national product.

Second, each Member of the House and Senate would have to vote for or against any tax increase—including those that are the result of inflation. This is to prevent "taxflation" which causes Federal revenues to constantly expand as a percentage of the gross national product.

Finally, my bill would require any budget resolution calling for a deficit to be approved by three-fifths of both Houses of Congress.

The statutory changes called for in the Fiscal Responsibility Act will deal with inflation more effectively than the constitutional amendments that have been proposed to require balanced budgets. The constitutional amendment process may be strong, but it is not timely. A constitutional amendment approved by Congress must be ratified by three-fourths of the States. This is a cumbersome process that would take several years at a minimum.

Unlike a constitutional amendment, the Fiscal Responsibility Act would go into effect immediately. Unlike a constitutional amendment, it would deal with today's excessive Federal spending, today's crippling inflation, and today's stifling interest rates.

Mr. President, I ask unanimous consent that a copy of a statement I made during Senate Judiciary Committee consideration of Senate Joint Resolution 126 be included at this point in the RECORD.

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

STATEMENT OF SENATOR MAX BAUCUS CONCERNING SENATE JOINT RESOLUTION 126, PROPOSED CONSTITUTIONAL AMENDMENT

INTRODUCTION

Mr. Chairman, I have studied S. J. Res. 126 very carefully. I have spent hours with its advocates and have spent hours with its opponents. I have read and reread each provision many times.

The position I have come to on the issues involved represents a perspective on this bill which I believe may be different from my colleagues on the committee. Not only do I support the principle involved in this legislation, but I favor the two basic provisions.

Let me state at the outset that I for one am strongly committed to voting for a balanced budget in fiscal year 1981. I am willing to make the tough choices involved in cutting back Federal spending.

Furthermore, I agree with the sponsors of S. J. Res. 126 that cutting back Federal spending this year is not enough. I agree with them that we ought to use the momentum created by this current crisis not only to balance the 1981 budget but perhaps more importantly, to enact executive branch and legislative branch reforms that can mean balanced budgets for years into the future.

It is clear that our current system contains biases that lead to increased Government spending and increased taxes. This is indeed the time to eliminate those biases.

The sponsors of S. J. Res. 126 are to be commended for the work they have done in this regard. They have helped focus public debate on principles that can help Congress keep a lid on spending and taxes.

SENATE JOINT RESOLUTION 126 PROVISIONS

I now wish to address the specific provisions of S. J. Res. 126. I not only support the concept contained in section one which would require a three-fifths majority for the approval of a deficit budget. I also support legislation which would make that provision a legal requirement.

I not only support the principle of avoiding hidden tax increases. I also support legislation which would make a recorded vote on all tax increases, hidden or otherwise, a legal requirement.

I am not simply supporting the goals of this resolution. Far from it. I believe the substantive provisions can make a real difference in the way this Government conducts its business.

The issue for me is not whether or not substantive provisions that are contained in S. J. Res. 126 are wise, because I have concluded that they are.

CONSTITUTIONAL AMENDMENTS

For me, the sole issue, is whether or not these provisions should be contained in the Constitution of the United States.

I do not take this issue lightly. Quite frankly, the question of whether or not these provisions should be contained in the Constitution was not a difficult one for me. This is not because of my lack of commitment to the issues involved in this proposal, but rather my own understanding of what is appropriate material for our constitution.

The most important test of any constitutional amendment is that its terms be clear and able to withstand the test of time.

The definitional problems posed by S.J. Res. 126 are recurrent. What are "total receipts?" What are "expenditures?" What is "national income?"

The sponsors of S.J. Res. 126 know that it is riddled with loopholes because these terms can be interpreted a variety of ways. Our inability to define these terms does not mean that we should not go forward with these provisions. My own legislation, the Fiscal Responsibility Act of 1980, S. 2374, uses these terms. However, my proposal is a proposal to amend the statutes of the United States, not the Constitution.

My own view is that these terms can be used within our statutes. If the definitions of the terms need to be adjusted, we can alter the statutes to accommodate these changes.

We do not have such latitude if we amend the Constitution. Amending the Constitution is appropriately cumbersome and difficult.

That is why we should not saddle this Nation's basic document of Government with terms of art that are likely to be outdated in 10 or 20 years.

THE ROLE OF THE CONSTITUTION

The Constitution should contain broad general principles and guarantees that form the fundamental law of our Nation. Interpreting complicated economic terms should be left to our statutes and to the day to day operations of the Government.

Article 1 section 8 clause 2 of the Constitution states that Congress shall have the power "to borrow money on the credit of the United States." No one would suggest that we rescind this country's ability to borrow. Clearly there are times when borrowing is necessary. The Constitution should give the Government that power.

The Constitution does not require that the power to borrow be exercised. It simply permits it. The question of when the power is exercised and to what degree it is exercised is a matter for the legislature and the people of this country to decide.

I believe strongly that we as a people should insist that our Government not spend more than it has. And I will continue to do all I can to bring our budget back into balance.

But any failure on our part to do that is not a failure of our Constitution. It is a failure of us as a people to make the appropriate demands on our legislature. And, it is the failure of Congress to implement the desires of its constituents.

THE IMMEDIACY OF FISCAL RESTRAINT

Our debate over balancing the Federal budget addresses an immediate problem. We have to meet a short-term demand of crisis proportions. We must discipline our Federal spending practices right now.

Senators today face very tough budget decisions whether or not a constitutional amendment is progressing. We must balance the 1981 budget now. We must hold the line on taxes now.

Waiting for a constitutional amendment is a way of avoiding tough decisions that need to be made now.

CONCLUSIONS

The need to balance the fiscal 1981 budget does not diminish the need for bringing additional fiscal discipline to this Government. We should begin by attempting to amend our statutes. That is why I have taken the best portions of S.J. Res. 126 and put them into my own legislative proposal.

S. 2374, the Fiscal Responsibility Act, which I introduced last week, will bring the same type of discipline that S.J. Res. 126 can bring to this Government without burdening the Constitution with the kind of provision that our founding fathers judiciously avoided.

I am conservative when it comes to Government spending and fiscal restraint.

I am also conservative when it comes to amending our Constitution.

I support the goals and more specifically, I support the provisions of S.J. Res. 126.

But I believe these provisions should be contained in our Nation's laws not in our Nation's Constitution.

Thank you very much!

(Mr. BOREN assumed the chair.)

Mr. BENTSEN. I thank the distinguished Senator from Montana for his contribution.

I would like to say that there are other Senators who want to be here but who have conflicting committee assignments and votes in the markup of bills, including the budget resolution.

I ask unanimous consent that Senators HART, NUNN, and BOREN be allowed to make their remarks in sequence after those of the Senator from New Jersey. That would be Senator HART, Senator NUNN, and the distinguished Senator from Oklahoma, who is presently in the chair, and who I know is looking forward to addressing this Senate.

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

Mr. BENTSEN. I now yield to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank my colleague for yielding and also for providing leadership in the Senate, in the Congress, and beyond, during probably this most critical time in our economy since the early 1930's.

Depending on who you talk to, we are skirting along an economic bubble that may break in the next several months. Real estate values could plummet, an overextended corporation might not be able to cover its loans, or the savings and loan industry might hemorrhage as a result of them having to buy money at 14 and 16 percent, and offering payments to depositors of about 6 to 7 percent.

Clearly, what we need in this environment of uncertainty is a comprehensive national strategy to restructure not just our economic policies but some of the ways we view economic and financial activity in this country.

It seems to me that there are three primary goals that we should be thinking about: one is to restore confidence; the second is to restore predictability; and the third is to identify the dynamic opportunities for growth in this economy.

Without a doubt, we have lost some confidence in the future of our economy. Businessmen do not make investments when inflation rates are 18 to 20 percent. Governments that get any money in the long-term market assume they are going to have continuing inflation in order to be able to pay it back. We have, in a sense, in the long-term credit markets entered the black hole. That presents grave problems for our Nation because our economy is premised on the existence of long-term credit markets. If utilities cannot get money for 30 or 40 years, they will not build. If housing and business development cannot get money for 15 to 20 years, little will be constructed.

It seems to me that a fundamental step toward restoring confidence is to be able to do something about people's expectations of the future. This is where we get into a very nebulous area. Everyone has his own favorite course as to what will restore that confidence.

I would like to suggest that one thing that will not restore it is an oversimplification of the issues. There is no one step we can take to restore confidence because it is a combination of a lot of economic and psychological factors. In the best of all possible worlds, economic policymaking really requires an imperfect sense of risks and possibilities.

We do not happen to be in the best of all possible worlds. We happen to be in a world where there are severe shocks to our economy coming every day from OPEC and from our trading partners around the world. In such an environment, I would simply suggest that we should not apply those shocks to ourselves through monetary policy.

It seems to me that the first step toward developing a comprehensive policy and identifying growth sectors, is to recognize that we must have a program that builds on what is best in America. We must build and regenerate. Those are two essential partners in the process of moving into a dynamic economy in the 1980's.

If we do not do that, the wars that will bring this country down are not wars that will be fought with nuclear weapons, but they are investment wars, investment wars in the 1980's that will determine the strength of national economies in the 1990's and beyond; wars that will not necessarily be fought with the Soviet Union or our other adversaries around the world, but wars that will be fought with our allies as we all grapple and rush to get a part of the increasingly smaller capital pie; as we all pursue our own nationalistic economic policies to the detriment of the entire world economy.

The next step toward getting us on the right road is prudent economic and fiscal polices. By prudent, I do not mean 20-percent interest rates. Nor do I mean a slash in the Federal budget overnight that is not the result of careful thinking but of political stampeding.

There is no question that we have to reduce Government spending, but it has to be done in a systematic and thoughtful way over a period of years in order to restore that confidence that Government can manage its own affairs, in order to restore that predictability that is essential for investment to be made in the private sector.

But in the process of this reduction of Federal spending, I believe it is important that we recognize that there are severe challenges to our national economy. Those challenges are that in the process of reducing Government spending, we will accentuate the growing problems among our regional economies in this country.

This is not a time today to go into any great depth about this, but it is simply a time to point out to my colleagues in the Senate that when we are talking about balancing the budget, when we are talking about cutting back dramatically in Federal programs, many of which benefit regions of the country differently, we are also beginning a process of enormous Federal expenditures, such as increasing the defense budget which we probably should do and an enormous commitment to synthetic fuels, all of which will affect regions of the country differently.

So when we talk about cutting the budget, we must keep it in the perspective of a national economy and of the shocks that those cuts can offer to specific regional economies, and, also, what increased spending in specific areas will mean to those same regional economies.

Mr. President, we also need more discriminating credit control policies. We should not sandbag business and housing markets with punitive interest rates in an effort to curtail excessive consumer spending and speculative transactions.

We need credit policies that will reinforce the pillars of our economy, such as housing construction and small business, not collapse them. We have to reward those industries which will give our country the biggest payoff in economic growth during the coming years.

To this end, Mr. President, I again compliment my colleague from Texas for his work on the Joint Economic Committee, for taking a position which is, in the fullest sense, bipartisan and was formulated with the best minds in this country, and for addressing the side of the equation which we have, for lack of a better word, labeled the "supply side" approach to restructuring the United States economy.

It is clear that the econometric model that was developed by Data Resources was a result of the leadership of the Joint Economic Committee and the Senator from Texas, shows us that if we can reduce certain taxes and give certain targeted credits to specific industries in this country, we shall all benefit. We shall benefit from lower inflation, we shall have greater capital formation, productivity will increase, and GNP will grow—all of which will benefit all regions of the country and will benefit all Americans, regardless of their party or their particular profession.

The targeted incentives which the Joint Economic Committee has suggested—adjust the depreciation schedule, increase the investment tax credit, rollback, possibly, of the social security tax increase, give tax breaks for research and development—all these are important and possibly essential.

The PRESIDING OFFICER. The time of the Senator from Texas under the order has expired.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senator from New Jersey be allowed to continue. Are we denied by a previous order?

The PRESIDING OFFICER. As the Senator from Oklahoma, I shall be happy to yield an additional 5 minutes to the Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator. I understand we have the Senator from New Jersey, the Senator from Georgia, the Senator from Tennessee yet.

Mr. BRADLEY. I thank the distinguished Senator from Oklahoma for yielding 5 minutes.

Mr. President, if we are going to identify the sectors of growth in our economy and provide them the specific incentives that will allow them to grow and produce, it is clear that perhaps we need a much larger planning apparatus. I suggest that the model for such an approach was followed in this country during World War II with the Temporary National Economic Committee. The work of that committee—composed of three Senators, three Congressmen and three members of the executive—was essential in laying the competitive framework for prosperity in the postwar era. Today it would be a process to address the immensely complicated issues before us.

It is, for example, a process that would allow for better planning and clearer discussion of all economic sectors as to what is needed in order to generate the kind of growth that we need to compete in an international environment.

Mr. President, there are some who say that the way we manage our foreign policy will determine our energy policy in the years ahead. I say the way we manage our foreign policy will also determine the strength of our economy in the years ahead, for it is clear that economic decisions taken in one country directly affect another country. The most recent example of that is where the dollar in recent weeks has appreciated in value and that has presented major problems for many oil importing countries such as Germany and France.

It is clear, also, that, because of our higher interest rates, enormous quantities of dollars have flowed into our country, thereby increasing our money supply. It is possible that those dollars could flow out of our country in a very short period of time; and, since those dollars flowed in in the form of deposits that were loaned out, there could be a very quick contraction, a contraction which could send our economy through a very serious shock and perhaps bring us to the brink of a very serious downturn in our economy.

This economic interdependence and how we manage it will be critical in the years to come. Fiscal policies that we follow, for example, to stimulate our economy do not always achieve that end, because they leak into the international economy through increased purchase of imports. In addition to that, the slippage of our dollars abroad, the reverse of what has happened in recent weeks, could wreak havoc with our monetary and credit policy and our attempt to control inflation in this country.

Mr. President, in the years ahead, we shall be challenged on every level—energy, international economics, productivity, and employment. All of these are challenges on which I believe Democrats will be intimately involved in formulating policies to assure growth and prosperity.

I salute the Senator from Texas and my fellow Democrats on the floor today for their efforts in this regard and for our continuing belief that we do have a view of the future that includes a prosperous economy that competes well in the international markets, that assures growth without excessive inflation.

Mr. BENTSEN. Will the Senator yield just 10 seconds?

Mr. BRADLEY. Yes.

Mr. BENTSEN. Mr. President, let me say to the Senator that I knew him before he came here, but I have become more and more impressed with the insight he brings to these problems and his understanding that we have to have a comprehensive policy to achieve these objectives.

Mr. President, I do not have control of the time.

Mr. ROBERT C. BYRD. Mr. President, is this the last order, the order for the recognition of Mr. BOREN?

The PRESIDING OFFICER (Mr. BRADLEY). That is correct.

Mr. BOREN. Mr. President, I take great pride in joining my colleague, the Senator from Texas, today, and others who have spoken out about the economy. In doing so, I want again to add to the remarks of others who have paid tribute to the Senator from Texas for his leadership over the years. Long before others began to speak in this country about the need to do something about the productivity problem, the Senator from Texas was one of the few voices that had already been raised. I think that his insight certainly has been of great benefit to this country. I salute him for speaking out as he has over the years on this important subject.

Mr. President, I am joining several of my colleagues today because I believe that we must act and act soon to avert severe economic problems in this Nation. This is certainly not the time for panic because solid and correct policy decisions can avert economic collapse. However, we must not delude ourselves into thinking that mild measures and political rhetoric will do the job.

It is impossible for any thinking person to ignore the signs of extreme danger. These include an 18-percent inflation rate, a prime rate that has hit 20 percent and may rise, individual savings that are not only the lowest in 30 years in this country but lag significantly behind most of the other major industrialized countries in the world. Productivity is at an alltime low. Business in general, and small business in particular, do not have access to the capital they need to survive. Consumer debt has more than doubled in 10 years, to the point where it is more than $300 billion today. Our deficit was $3.6 billion in January alone and is over $30 billion for the last 3 years. Unemployment increases steadily. The housing industry is on the verge of a major depression, with new starts declining over the past 2 years and, in my own State of Oklahoma, real estate sales for the first 3 months of this year are down over 80 percent from the comparable period of a year ago.

Some financial institutions are being forced to dip into their reserves. The Nation's energy bill is running $80 billion per year for imported oil alone and I note that Nigeria from whom the United States imports over a million barrels a day is raising its price another 51 cents a barrel to a top price of $34.72. The economy from major industrialized centers, such as Detroit to the farm belt States of the Midwest, are experiencing severe difficulties. Net farm income could be off as much as 25 percent and we are told repeatedly that unless something is done about import competition, the automobile industry, traditionally one of the Nation's economic barometers, is in deep trouble.

Despite recent reports of strengthening of the dollar abroad, there remains great concern. Senator BRADLEY spoke eloquently on this floor last week about the dangers inherent in recent Eurodollar expansion in the U.S. market.

But, Mr. President, far worse than all of this, is the psychological effect, sustained and increasing inflation is having on the American people. The American public is simply not convinced that the Congress and the administration are either serious about controlling inflation or have the capacity to do it.

I believe that that is the main reason why increasing interest rates have had such little effect on the inflationary spiral. Borrowing has gone on virtually unabated because the borrower believes that a 15-percent rate today will be an 18-percent rate tomorrow and perhaps a 20-percent rate the day after, and perhaps even higher the following week. There is no incentive to wait.

Nothing is more important in halting the inflationary spiral than restoring confidence in the Government's deter-

mination to act. The restoration of confidence in the Congress and in the President that we collectively have the courage and the will to act, is the single most important thing which must be done. If the American people really believed that we would act, that expectation would cause inflation to subside and productive investment and savings to increase.

Mr. President, the plain truth is that we have not done enough thus far to restore confidence. How can the average American have confidence when he hears a budget with spending outlays of $611 billion up from $531 billion originally requested the year before, described as austere.

How can the average American react with anything but cynicism when he realizes that the much ballyhooed balanced budget is really being accomplished more by tax increases than by spending cuts. These tax increases include a $12.6 billion increase in indirect oil taxes on oil equivalent to a 10-cent-per-gallon tax on gasoline and a $3.4 billion increase of revenues by withholding taxes on interest and dividends. The latter action will make saving even less attractive at a time when we need to encourage it.

If we look at what has happened since January and the President's first budget, he has reduced his projected spending outlays only from $615 billion down to $611 billion, less than a $4 billion cut. On the other hand, he has increased his estimate of revenues up from $600 to $628 billion.

What has been proposed thus far is not even a very effective band-aid for a patient that demands major surgery.

We need to do much more and it must be done now or we face the possibility of an economic disruption as serious as any in American history.

I repeat that, Mr. President, because I strongly believe it, we must act now or we face the possibility of an economic disruption as serious as any in American history.

We cannot afford that kind of economic devastation at this time. Politically and militarily, the balance of power has shifted precariously away from America and the free world. World stability may well depend upon the ability of the United States to face up to its own domestic economic problems.

What must we do? First, we must not allow important economic policy decisions to be made on partisan political basis. We must build a bipartisan economic policy. There is plenty of blame to be shared by all of the past administrations—by the Republicans under Nixon and Ford who used ineffective "Win" buttons and bureaucratic price and wage controls as substitutes for what needed to be done; by the Carter administration which in the last 3 years has allowed Government spending to reach the highest percentage of our gross national product of this century except for wartime.

If we sincerely cherish our political and economic system we will stop arguing about which party gets the credit and get on with the job. We had better all start bailing or the economic ship is going to sink.

Second, in addition to a bipartisan economic policy, we must make as our first priority the shifting of resources from the public sector to the private sector. We will never combat inflation until we shift more into private savings and investment to increase our productivity. This means that a balanced budget must be achieved not by increasing taxes but by even deeper cuts in government spending. These cuts must be deep enough to balance the budget at a spending figure below $600 billion and provide for tax cuts to encourage productivity through increased depreciation rates and other incentives for capital formation that have long been advocated by my colleague from Texas, and others.

Balancing the budget is important, but cutting Government spending is the most important action of all. Balancing the budget by increasing taxes would just further bleed off resources needed by the private sector to revitalize the economy.

Third, we must face the fact that Government cost of living indexes must be revised. The present CPI itself increases the rate of inflation. It is totally inaccurate. Its notoriously exaggerates the cost of housing and it totally disregards the fact that consumers do change their buying habits to minimize their costs. A more accurate CPI will help to bring down inflation and be in the best interests of all Americans.

Yet, we talk about restraining this for the people, and our courage and determination to act. We will have to prove it, not by any fluff and rhetoric, but by really digging into the CPI, and other things that must be tackled if we are going to do it.

Fourth, while we are going through the necessary long range adjustments, there must be temporary transitional help to bring down the interest rates in key areas for investment purposes—and I stress, investment purposes.

While the economy must be cooled off, the high interest rates have very uneven effects. What may slow down one area of the economy may bankrupt another.

Housing and related industries, auto dealers, small farmers, and small business people among others are faced with ruin if they do not have relief from high interest rates. The present high interest policy runs grave risks of causing collapse in key areas that could bring down the entire economic house of cards with severe impacts on basic financial institutions.

Mr. President, I am gravely concerned that Mr. Volcker and the Federal Reserve are greatly underestimating the fragile nature of some segments of our economy. In trying to bend some segments of the economy we are likely to find that they are so brittle that they will break. Confidence in the economy is not strong enough to survive the collapse of key groups and the impact it could have on over-extended financial institutions.

I urge the President to support immediate actions to place safety nets under the economy while we deal with the long range solution.

Among these safety nets, two actions are needed as soon as possible. First, provide lower interest rates for investment purposes while keeping tight credit controls on consumption. This could be done by creating special "Build America" savings accounts to provide tax free interest on accounts paying lower rates of interest. This would provide banks and savings and loans with a pool of lower interest money which could be loaned out to key elements of the economy which are in real trouble. Another alternative would be to provide subsidized credit rates for key segments of the economy.

I urge the President to act now. We must not wait 90 or 180 days. We must act now before these high interest rates force countless productive businesses and farms into financial ruin.

Second, to protect our domestic financial institutions against any ill effects of sudden movements of large amounts of foreign holdings in this country, the President should seek additional powers for the Federal Reserve system to deal with this situation if it should ever develop.

Mr. President, in summary, there is urgent need for action. To restore confidence and to stabilize the economy we must not wait. Every day, every week of inaction, increases the risks to our economy. We must act to balance the budget by reducing spending below the $600 billion level, reject any net tax increases, provide for productivity related tax cuts to increase investment, and overhaul the CPI which itself increases inflationary pressures. All of these actions will help to restore confidence and will set us on the path to restoring health to the economy. While we are waiting for these steps to take effect, safety nets are needed to prevent a sharp break in the economy including lower interest rates for investment purposes and provision for the Federal Reserve to protect financial institutions against any sudden shifts in foreign deposits.

It is my sincere hope that the President will challenge the Congress to act quickly on this entire package. In 1933 Congress and the President acted together in 100 days to help turn around the economy of this country. It can be done. We must now display the same urgency. How much better to act before trouble strikes than to wait until after the fact. We can preserve our economic stability but we can no longer do so with cosmetics and rhetoric. We must rise to the challenge.

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

Mr. BOREN. I yield.

Mr. BENTSEN. Mr. President, I congratulate the Senator on the very comprehensive program he is proposing and the fact that he well understands that it is just one approach we have to make. We have to approach it from the monetary, the fiscal, and the productivity aspects as we meet the challenges of our allies in the markets of the world.

Mr. BOREN. I thank the Senator from Texas. I believe he is right in pointing out that we have to tackle across the board, and it is going to mean a shift of

resources into areas that will increase the productivity of our entire economy.

I believe that what we have seen today, in hearing many of our colleagues speak, is a willingness on the part of the Senate, and it should be a message to the country. The Senate is ready to rise to this challenge, and we are ready with this awareness toward coming up with the right policies.

I thank the Senator from Texas, and I yield the floor.

THE HIGH INTEREST RATE POLICY OF THE FEDERAL RESERVE BOARD

Mr. SASSER. Mr. President, I am becoming increasingly alarmed by the Federal Reserve Board's high interest rate policy. As you know, this policy is said to be designed to slow inflation. The traditional economic wisdom at work in this case says that by creating high enough interest rates, you force farmers, homebuilders, consumers, housewives, and small business men and women to retrench, to cut back on purchases of goods and services. That creates a recession which finally causes inflation to slow down. I say, "finally," Mr. President, because this debilitating recession-style economic remedy for inflation can take years to work.

I, for one, am not willing to wait years while a major recession ravages the farmers and rages on the farms and storefronts of America for the Federal Reserve Board's recession policy to work. And, I am not even convinced this policy will work at all. The theories being followed by the Fed were developed for another time and another place. They are unrealistic, today, and dangerously out of tune with reality. Curiously enough, in fact, the Fed's anti-inflation tight-money policy actually is accelerating inflation. To the extent high interest rates have impacted consumer or wholesale price indexes, it has served only to increase them. The Fed's soaring interest rates and mortgage costs have been reflected directly in the Consumer Price Index. Businesses just pass on the sky-high cost of borrowing in higher prices, as well. And that causes the CPI to rise even further. But the Fed's misguided policy is, and will increasingly in the future, have an even more serious effect.

TENNESSEE FARMERS

As I noted last Wednesday, March 26, in comments before the Senate, I have talked with literally hundreds of Tennessee farmers in recent weeks. They are being pushed against the wall by ruinous interest rates on the seed and fertilizer loans they must have to plant this spring. They are being pushed so far in some cases that they may simply drop out of agriculture this year to cut their losses. That decision by Tennessee cotton farmers and soybean growers—and farmers elsewhere, as well—will only aggravate inflation. It will reduce supply, forcing prices for food, clothing, and other byproducts up even faster. It will markedly slash our export earnings from agricultural sales abroad—earnings that could otherwise total $37 billion this year. The loss of these exports and the dollars they bring home will force the dollars' value down overseas and push up prices for all types of imports, thereby creating more inflation.

In fact, the more I review the inflationary impact of the Fed's mislabeled anti-inflationary high interest policy, the more incensed I become. Scratching beneath its surface reveals that the Fed's policy may well cause more inflation, not less, as it is designed to do.

Two things are for sure: It has caused chaos in the domestic bond and mortgage markets and is hurting American citizens in the pocketbook. I chaired a Senate Budget Committee hearing last fall, and the chorus of complaints was virtually unanimous, at a time when the interest rate was at 12 percent, that the Fed's high interest policy was doing far more harm than good.

A CALL TO REDUCE INTEREST RATES

On March 7, I telegramed the Chairman of the Federal Reserve System's Board of Governors, Paul Volcker, urging a reduction in interest rates and a cap on speculative borrowing. Last Wednesday, March 26, I joined with the distinguished chairman of the Senate Appropriations Committee in sponsoring Senate Resolution 392, calling, again, on Mr. Volcker and his colleagues at the Fed's Board of Governors to reduce interest rates.

JEC ALTERNATIVE

But we must do more; we must see to it, Mr. President, that the basic system, the mechanism, for dealing with inflation is a realistic, effective one; one that offers us the realistic hope of slowing inflation. We need an alternative to the slow, outdated, ineffective recessionary, anti-inflation policy of the Fed. And, I believe, our colleagues on the Joint Economic Committee of the U.S. Senate have come up with that alternative.

Beginning with their annual report last year, the Joint Economic Committee has sought to focus our attention, and the attention of the entire Nation, on the supply side of our two-sided economy. Since the thirties, economists and I must confess, politicians also have only looked at the demand side. They focused on techniques, primarily monetary and fiscal policy, for fine-tuning aggregate demand. The supply side of the economy was ignored with the hope that it always fluctuated with demand.

Mr. President, I think we are a lot smarter today. We have learned—in good part due to the pathbreaking Joint Economic Committee work—that the supply side is as important as the demand side in dealing with inflation. As the JEC's distinguished chairman has repeatedly pointed out, it makes far more economic sense to fight inflation by increasing the supply of goods and services rather than by slashing demand. Slashing the demand for goods and services—the purpose of the Fed's present high interest rate money policy—creates a whole host of problems that the Bentsen/JEC approach bypasses.

The Fed wants to suppress demand and push people out of work. It wants to take people off the assembly line and put them in the welfare line.

INCREASED PRODUCTIVITY NEEDED

The JEC approach would take people off the welfare line and put them on the assembly line. Frankly, that makes a lot more sense to me, Mr. President, a lot more sense. This new approach to fighting inflation has received laudatory reviews for the insight it has provided. Yet, in retrospect, the JEC solution is simple and straightforward: Incentives are established to spur production and investment designed to expand our Nation's productive capacity. In particular, efforts to promote productivity in both the private sector and the public sector—a key concern of mine—are stressed as the cornerstone of this innovative policy.

The Bentsen approach has opened a new door for us. It shines a light down the dark tunnel through which the Federal Reserve Board of Governors wants the American people to walk. It offers us an option, an alternative to the Fed's path of rising unemployment and years of slow growth and decrease our static productivity.

It is an option we should take, Mr. President.

The question is how best to turn this Nation around. How can we expose the outdated Fed policy as unnecessary, and, indeed, even dangerous, and replace it with the supply-oriented Bentsen alternative.

The first step, one we are discussing now, is to rivet the administration's attention on our dissatisfaction with the Fed and our intention to follow the JEC approach. We must give the White House, the Fed, and the country, indeed, all Americans, a clear, hard sign that we are not willing to sit still for soaring interest rates, a debilitating recession and rising unemployment when the JEC has a better, a much better approach.

Mr. President, I commend the distinguished chairman of the Joint Economic Committee, the Senator from Texas (Mr. BENTSEN), for the fine work he has done with this committee. Senator BENTSEN has been diligent and innovative in an effort to find a way out of the economic problems we are experiencing.

I commend him, as one of his colleagues, for the diligence, the foresight, and the perception he has exhibited.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial related to the report of the Joint Economic Committee which was published in the March 20, 1980, edition of the Commercial Appeal and entitled "A Second Opinion."

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

A SECOND OPINION

One reason our economy is ailing is its aging industrial plant. This ill can't be cured by budget surgery and the other nostrums prescribed by President Carter. What can help is a tax cut.

Not just any cut will do, however. It must be a tax cut to encourage investment and productivity.

This nation's productivity—or output per worker per hour—is in decline, and it will be until substantial infusions of money are forthcoming from a nation saving at record-low rates. But today's record-high interest rates—intended to discourage inflation—are

also discouraging the investment that's needed because it's so costly to borrow. And Dr. Carter's black bag wasn't big enough to hold a tax-cut antidote, which he apparently considers "sugar-coating" the "bitter medicine" of fiscal restraint.

Others in and out of government see the need for a selected, specific tax cut of this sort, and among those on Capitol Hill who favor such a move are Sen. Lloyd Bentsen (D-Texas) and Rep. Richard Bolling (D-Mo.). They'd pay for the cut with the $10 billion oil import fee the President wants as budget insurance, and they'd get his $600-billion-plus budget in the black by spending cuts alone.

The approach has great promise. Delivering on it could be something else in an election year, when political careers can hinge on appropriations popular back home. It must be remembered, however, that it is Congress—not the Carter administration—which has the say on if and how the budget is disciplined this year and every year.

Bentsen, Bolling and their colleagues on the congressional Joint Economic Committee have been on record for such incentives long before the President came up with new medicine. Their committee report last year achieved bipartisan support in recognizing that traditional remedies won't work for today's inflation since inflation, itself, no longer fits the classic definition of too many dollars chasing too few goods.

Slowing the growth of money and credit and balancing the budget still have their place. It is downright self-defeating, however, to pay for such policies by sacrificing the expansion and modernization of our national plant.

A tax cut to stimulate investment may not finance itself entirely by creating more income for government to tax, as some would argue. But it's an important way to help a nation suffering from inflation complicated by sagging productivity.

● Mr. HART. Mr. President, I am very pleased to join with Senator BENTSEN and some of my other colleagues in the Senate to discuss the policies we will need to pursue in order to bring inflation under control. Our inflation situation today is very disturbing with consumer prices rising during the first 2 months of this year at an annual rate of more than 18 percent. This is having a profound effect on the well-being of millions of Americans, particularly those on fixed incomes and those whose wages have failed to keep pace with rising prices.

I welcomed President Carter's latest proposals for reducing inflation, as I know many of my colleagues did. I hope they will move us in the right direction. But I am concerned that the President focused exclusively on short-run measures, and on tight monetary policy in particular, with no new proposals for implementing necessary long-run measures for keeping inflation under control throughout this decade and beyond.

It is unfortunate that we are relying so heavily on montary policy now to reduce inflation, because its impact falls so unevenly on different sectors of our economy. For giant multinational firms, with access to money and credit markets around the world, tight money and high interest rates here are not serious problems. They can tap into money markets abroad if funds dry up here, and suffer only minimal discomfort. Our domestic monetary policy goals will probably have little effect on their spending plans, either here or abroad, because of their multinational reach.

This basic failure of domestic monetary policy to have a significant effect on giant multinationals mean that if monetary policy is to be effective against inflation it will have to affect other sectors even more. Small businesses, autos, and homebuilding will have to take the brunt of the Fed's current efforts to tighten money. We are already seeing this in homebuilding. New housing starts in February were down to a seasonally adjusted level of 1.3 million units, the result of mortgage rates that are 16 percent or higher in most of the country. In addition, there are predictions that small business failures will skyrocket in the months ahead if the current credit situation continues.

So, Mr. President, I think that reliance on tight monetary policy alone would be a big mistake.

One thing we can and should do to relieve the burden on monetary policy is to provide more fiscal restraint. The recent report of the Joint Economic Committee has shown that we can pursue a balanced reduction of spending and taxes without harming the growth and employment potential of the American economy.

During the markup of the first concurrent resolution for 1981, I have been working to cut at least $16 billion and speed tax collection and close tax loopholes so that we can actually have a surplus of $25 billion next year for tax cuts. I also think we should wield a sharp scalpel on the 1980 budget and cut some of the fat there. I know time is short, but with a projected deficit of $43 billion for this year, there is plenty of room for making selective intelligent anti-inflationary budget cuts for this year.

We should also look toward selective anti-inflationary tax cuts as soon as we balance the budget. One very desirable course of action would be to enact $5 billion in supply side tax cuts to stimulate productivity enhancing business investment, as Senator BENTSEN has long advocated. I share Senator BENTSEN's interest, and I am a cosponsor of the 10–5–3 proposal in the Senate. There are other proposals that have been introduced for stimulating business investment; we should look closely at all of them and enact those which provide the biggest investment incentive.

We should also aim toward reducing social security taxes, or at least postpone or rescind scheduled increases. This would have a direct beneficial effect on inflation. Social security taxes are a major business cost. Increases in social security taxes get passed on to consumers through higher price. Anything we can do to cut these taxes would cut business costs and reduce the pressures for further price increases.

Also, income tax indexing should be included in any tax cut package.

Selective consumer credit controls will also help. The President has given the Federal Reserve the authority to control consumer credit, under the Credit Control Act of 1969, and the Fed seems to be willing to make use of those powers. The recent growth of consumer credit has contributed to inflation by propping up consumer spending while reducing the availability of funds for business investment. Consumer credit has to be slowed as part of the fight against inflation, and I hope the Fed's efforts here will work. If they do not, then I am afraid that the Fed will continue to tighten up on monetary policy, thereby pushing up interest rates and further harming those sectors that have been on the front line against inflation so far—housing, autos, and small business.

Mr. President, the fight against inflation must be won, but it cannot be done by monetary policy alone. We need a balanced program that combines both short-run and long-run measures. I commend Senator BENTSEN and the Joint Economic Committee for their efforts to keep us pointed along that track.●

A NEW ECONOMIC STRATEGY

Mr. NUNN. Mr. President, I begin my statement with sincere praise for Chairman BENTSEN, Representative CLARENCE J. BROWN, the ranking minority member, and all members of the Joint Economic Committee who have risen above partisan politics to issue a unified annual report which forcefully presents a new economic strategy for our Nation. Their 1980 committee report demonstrates that steady economic growth, created by productivity gains and accompanied by a stable fiscal policy and a gradual reduction in the growth of our money supply, can reduce inflation during the 1980's without increasing unemployment. The policies from the committee's report which we present this morning are consistent and mutually reinforcing, forming a clear blueprint for our Nation's economic future.

I pledge, Senator BENTSEN, my full support as we begin their implementation. He has done a magnificent job, in my opinion, not only in bringing this group of Senators here today to discuss the crucial economic issues facing our country but also by taking leadership in the Joint Economic Committee for the last couple of years.

When I came to the Senate 6 or 7 years ago—I say this without any disparagement of those who served on that committee then—the recommendations of the Joint Economic Committee were not considered very much in substance by Congress. Perhaps they should have been. But I think that with Senator BENTSEN's leadership, joined by Representative BROWN of Ohio, on the House side, the ranking minority member, we have a new respect for the Joint Economic Committee and its recommendations. I believe that is primarily attributable to the leadership of the Senator from Texas.

We are in crucial economic times, and I think his leadership, which already has been exhibited and which will be even more in the forefront of the economic discussions in the future, will be of tremendous benefit to Congress and to the Nation. So I congratulate him.

I also congratulate the Senator from Oklahoma, who presented a very lucid

statement about the challenges and the need to deal with them in a comprehensive way.

The focus of my remarks today will be on productivity. I have worked on this for a long time. Together with Senator PERCY and Senator JAVITS, I introduced a bill on productivity, which became law, back in 1974. Unfortunately, the productivity council at that time did not receive the attention of the executive branch of Government. It did not receive the attention of the executive branch under the Ford administration nor under the Carter administration.

There has been a bipartisan failure in this country to recognize the problems its productivity growth and to accept those problems as a real challenge for action by this Government.

I hope that the new proposed legislation introduced by Senator BENTSEN, of which I am a cosponsor, will address that problem in a comprehensive way.

I believe we must add a word of caution. Unless the executive branch and the people in high levels in Congress really give their attention to productivity, no matter what we do in terms of a new council, it is not going to work. The new council that the Senator from Texas is advocating, coupled with a very vigorous expression of support—constant support— from the executive branch and the legislative branch can begin to put emphasis on the most severe economic problem we have, in my opinion, and that is productivity. All these matters are interrelated.

Again, I express my appreciation to the Senator from Oklahoma, and I am privileged to have been here to hear his remarks.

I look forward to working on a continuing basis with the Senator from Texas in trying to begin to turn this country around economically.

Mr. President, we are now in a period which is affected not only by the fundamentals of the economic system, but also by an inflationary psychology that somehow has to be broken.

Contributing to all of this has been the declining rate of productivity in this country. I think we talk entirely too little about the importance of productivity to the economy of the United States, what it has done for us in the past and what the declining rate of growth of productivity is doing to us today.

As Senator BENTSEN pointed out, the answer to our inflation problem does not lie in traditional policies that are designed to wring the life out of our economy and throw people out of work. Instead, we must go beyond traditional restrictive policies to deal with the supply side of the economy, if we really want to get a grasp on the longrun inflation problem in this country.

The key to longrun control over inflation is productivity. Productivity increases make it possible for wage increases to be granted without having to pass the full amount along to consumers in higher prices. It provides a buffer between wages and prices and allows for rising real wages for American workers. In addition, rising productivity helps us absorb energy cost increases with less inflation, as the recent experience of the West Germans and Japanese has shown.

But the productivity performance of the American economy has recently been dismal. Between 1948 and 1955, productivity increased at an annual rate of 2.5 percent. Between 1973 and 1978, by contrast, the productivity of the American economy rose only 0.8 percent per year, and during 1979 productivity actually fell 1.8 percent.

The U.S. productivity record contrasts very unfavorably with the records of other major industrialized free world countries. Our growth in productivity since the end of World War II is lower than that of any of our major trading partners. For example, between 1950 and 1978, the average yearly productivity increase in Japan came to 7 percent, compared to 1.8 percent in the United States. For West Germany, it amounted to 4.6 percent yearly. This productivity lag in the United States has had a profound effect on our standard of living. In 1978, per capita disposable income in the United States came to just under $6,700. If productivity in the United States had matched the West German rate between 1950 and 1978, per capita income in the United States in 1978 would have been $13,500.

I do not think that anyone can precisely say what has caused our declining growth of productivity. Contributors to this decline include:

The slow rate of capital formation that is taking place in this country, coupled with the reduced rate of savings in America;

Overall work motivation;

Reduced research and development in both the private sector and the governmental sector;

The increasing drag on the productivity caused by Government rules and regulations which have proliferated;

The increasing number of women and young people in our overall labor force; and

Finally, for a nation that has been built on cheap energy, precipitous increases in energy costs certainly have a drastic effect on productivity.

Productivity can be improved in a number of ways, including enactment of tax measures to stimulate savings and investment. A balanced budget will also help, by reducing Government borrowing and lowering interest rates.

There is an additional measure that we should undertake soon that could help improve productivity without adding significantly to Federal spending, and that is the establishment of a revitalized National Productivity Council. Last month, Senator BENTSEN and I sponsored legislation that would set up a National Productivity Council to bring together labor, business, and the Government in a cooperative effort to revive productivity in the United States. The Council would develop a national productivity plan, reviewing what is underway now and what could be done by the Federal Government to increase private sector productivity. It would serve as an advocate right in the Federal bureaucracy for tax and regulatory policies designed to promote productivity.

During the 94th Congress, I introduced legislation to establish a national center for productivity and quality of working life, which was later passed and signed into law by then-President Ford in 1975. While charged with the responsibility to stimulate and coordinate efforts to increase the Nation's productivity growth rate, the center unfortunately did not receive proper support from the administration, with only limited access to the White House and top administration officials. As the GAO has found, the fatal effect of this lack of support was the most important lesson learned from the experience of the former national center for productivity and quality of working life.

Therefore, the legislation that Senator BENTSEN and I are proposing is structured to avoid such past mistakes. The new council that the bill would establish would have a strong leader, appointed by the President and confirmed by the Senate, who would have access to both top offices in the administration as well as to congressional leaders. It would be recognized by both the executive and legislative branches as the focal point for Federal productivity efforts.

Mr. President, the need for such an organization was recognized in 1975. I believe that this need is even greater today. All Americans must become aware of the importance of productivity growth in their everyday lives. A national productivity council can help change the concept of productivity from that of a little-understood economic theory to a daily watchword for an improved standard of living for all our citizens. A National Productivity Council would show the world that the Federal Government is serious about getting the American economy back on the right track and improving our productivity performance. I hope we can enact this legislation before the end of this session.

Mr. BENTSEN. Mr. President, I thank the Senator for his leadership. He is a great patriot, and he has made a major contribution to the thinking of the Senate. His leadership in this matter is certainly welcome and appreciated.

Mr. NUNN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I join in commending the able Senator from Texas for the tremendous job he has done as chairman of the Joint Economic Committee. I commend him, also, for stimulating the discussion this morning dealing with what I consider to be the very severe problems facing our economy today.

I listened with much interest to the remarks of the distinguished Senator from New Jersey (Mr. BRADLEY)—beautifully handled, I thought—and the distinguished Senator from Montana (Mr. BAUCUS) and the distinguished Senator from Oklahoma (Mr. BOREN). I also agree with the comments on productivity just mentioned by the distinguished Senator from Georgia.

Senator BOREN, in his comments, said that the Government must act now or our country will face severe economic dislocation. I believe he is correct.

The Senator from Montana (Mr. BAUCUS) mentioned—if I recall accurately—that it is important that we not mislead the public as to what is being done in Washington with respect to the anti-inflation fight. I must express the view that I think perhaps the public is being misled. The radio, the television, the news accounts almost daily assert that the administration and Congress are preparing to reduce Government spending. Such is not the case at all.

President Carter has proposed a $64 billion increase in Federal spending. Only 4½ months ago, on November 16, Congress passed the second joint resolution, specifying the amount of spending for fiscal 1981. That figure was $548 billion. The figure submitted by President Carter 2 days ago calls for spending in fiscal 1981 of $612 billion. That figure represents an increase of $64 billion in spending.

A reduction in Federal spending is not being proposed. The only reduction comes from this: On January 28, President Carter proposed spending for 1981 totaling $616 billion.

There was such an adverse reaction to that that this past Monday he revised that to $612 billion. That is a de minimis reduction in the increase in spending. It amounts to virtually nothing.

Congress and the President propose to spend $64 billion more in the new year than Congress authorized to be spent in this current year.

I think the people are being misled, but not all of them. Driving to work this morning, I listened to David Brinkley and he is not misled. He pointed out the figures that I have just mentioned.

The Senator from Oklahoma in his comments pointed out also that the budget is being balanced, if it is balanced, by an increase in taxes, not by a reduction in spending. The Senator from Oklahoma (Mr. BOREN) called for a balanced budget by decreasing spending instead of increasing taxes. I concur in his view.

The question of interest rates has been mentioned. Of course that is of vital consequence to the American people.

The Chairman of the Federal Reserve Board, Mr. Paul Volcker, testified today before the Senate Subcommittee on Taxation, and he expressed the view that the only way to effectively reduce interest rates is to get Government spending under control.

This past week I spoke to some 500 or 600 Virginia homebuilders who are in Washington, and I expressed the same view, that unless this Congress and this President acting together—neither one can do it alone—unless we act together to control spending, to reduce the sharp increase in spending, then it is unlikely that interest rates will come down any time soon.

I might say that the Virginia homebuilders asked for nothing from the Federal Government except to get spending under control.

Unfortunately, I see very few signs that either Congress or the administration is determined to get spending under control.

The Senate Budget Committee 2 days ago proposed that there be an $18 billion increase in spending for fiscal year 1980. Four and one-half months ago the Budget Committee recommended total spending for 1980 at $548 billion. Two days ago they increased that by $18 billion to a total of $566 billion.

Is that getting Government spending under control, to increase spending with such a huge increase in a period of 4½ months?

I think our country is in a very grave, very serious economic condition. Some experts use stronger terms than I do. I do not want to use those terms in describing what this country might be faced with in the months ahead. I think I prefer to use words of the Senator from Oklahoma (Mr. BOREN) when he says that we face severe economic dislocation if we do not act now.

I think we must act now; we must act now to control spending. That is the key to it. To control spending. The key to it is not to raise taxes but to control spending.

Now let us see how the President handled that. On January 28, the administration estimated the receipts of Government to be $600 billion. Two months later, this week, he estimates the receipts of Government to be $628 billion. In other words, what the administration proposes to do and Congress will do if it goes along, is to take away from the individual citizens some $28 billion more than had been envisioned only 2 months ago.

So I do not see much of a silver lining in the clouds that are over our Nation at the moment. I see severe trouble ahead.

I hope that the attention that is being focused on this problem by the discussion in the Senate today will bring about a climate that will balance the budget by reducing the rate of increase in spending rather than balancing the budget by taking greater revenues from the American citizens.

Mr. BAUCUS. Mr. President, will the Senator yield briefly at that point.

Mr. HARRY F. BYRD, JR. I yield.

Mr. BAUCUS. I compliment the Senator for drawing out this point, that is, the administration's budget is brought into balance not by so much by cutting expenditures as by increasing revenues. The Senator from Virginia accurately pointed out that the original budget for fiscal year 1981 anticipated roughly $600 billion in revenues. The latest budget estimates $628 billion in revenues.

The American people want a balanced budget, and a balanced budget achieved through spending cuts. Balancing the budget by increasing taxes is not responsible fiscal policy.

Mr. HARRY F. BYRD, JR. I thank the Senator from Montana. I think what he says is just exactly correct.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. BENTSEN. I comment that the distinguished Senator from Virginia, Senator HARRY F. BYRD, JR., has a long reputation for fiscal prudence and responsibility when it comes to spending taxpayers' money.

I am delighted to have his counsel and his advice in this colloquy and his comments this morning. It is a major contribution which we sincerely appreciate.

Mr. HARRY F. BYRD, JR. I thank my friend from Texas.

May I make just one other observation?

At the hearing this morning of the Subcommittee on Taxation, besides Chairman Volcker of the Federal Reserve Board, were two other witnesses, Dr. Raymond Saulnier, professor of economics at Columbia University, and Mr. Albert Sindlinger, chairman of the board of Sindlinger & Co.

Dr. Saulnier is a noted economist. He served as Chairman of the Council of Economic Advisers during the administration of President Eisenhower. Under questioning today he expressed the view that the single most important thing for this Government to do is to control the rate of increase in spending.

I do not know of anyone in the Senate or in the Congress who proposes to reduce spending below what it is now. What I and others have advocated is to sharply reduce the increase in spending that has been proposed. Dr. Saulnier today in his comments took precisely that same view.

Mr. Albert Sindlinger is an economic pollster, a very interesting individual in a very interesting line of work. I have been to his company headquarters.

What he has been doing for 25 years, and has been doing it each day, day after day, is to telephone, his organization telephones, 1,500 persons all over the United States each week. They are polled on economic as well as political issues.

He expressed the view that the confidence level on the part of the American people is very low. He brought out one fact that he thinks is of great significance, and it seems to me it probably is; namely, that 45 percent of the individuals called in the past 30 days say that their income today is less than it was a year ago. He regards that as a very significant figure.

He made two very strong statements. I told him I did not subscribe to those statements, but they are his statements. He said he felt that by this summer an emergency session of Congress will need to be called. He said, secondly, that the Nation faces the possibility of an economic collapse. I, myself, I want to say, do not share that pessimistic viewpoint, but I point out his statement because he has opportunities in the business and professional field he is in to come in contact with large numbers of American citizens.

He said the average American is convinced that the average family cannot continue indefinitely living beyond its means, and that the average family feels that the Government of the United States cannot continue indefinitely living beyond its means.

When I asked Mr. Sindlinger what, if an emergency session were called, it would do or try to do, what it would be

required to do, and what Congress must do at one time or another—it is just a question of when it will be done—he said:

Very substantially reduce Federal spending, and not only to balance the budget but, he said, it must create a surplus of something approaching $40 billion.

Mr. BAUCUS. Mr. President, our most serious domestic problem is inflation. The Federal Government must continue to take strong steps to curb inflation through responsible fiscal policy.

I hope my colleagues in the Senate recognize that the tight-money policy being pursued by the Federal Reserve Board is not the answer to inflation. High interest rates threaten the housing industry, the agricultural economy, and small businessmen in Montana and throughout the country.

Mr. President, we cannot fight inflation by crippling key productive sectors of the economy. An economic policy that destroys the housing industry, that cripples agriculture, and threatens small business throughout the Nation is not a responsible economic policy. An economic policy that results in massive unemployment is not a responsible economic policy. Adequate credit must be available at reasonable prices in these key sectors of the economy.

Farmers and small businessmen cannot pass on higher interest costs in the form of higher prices. Further, they do not have alternative sources of credit. As credit becomes scarce and expensive many businesses in Montana and throughout the Nation must realistically face the specter of bankruptcy.

A key factor causing unprecedented increases in the cost-of-living has been high consumer spending. In anticipation of future price increases, consumers have been willing to go farther into debt and to dip into their savings to purchase goods they think will be more expensive in the future. Some form of credit restraint may be necessary to discourage that kind of spending. But, as I recently pointed out in a discussion with Chairman Volcker, the Federal Reserve System has a range of options for implementing monetary policy.

The administration and the Federal Reserve Board can have authority to use selective credit controls which will restrain consumer spending without eliminating credit for housing, agriculture and small business. They should make more use of this authority.

THE ROLE OF FISCAL POLICY

The cornerstone of any successful program to curb inflation must be responsible fiscal policy. I am gratified that a majority of my colleagues in the Senate joined me in voting for a Senate resolution calling for a balanced budget in 1981.

Besides balancing the 1981 budget, Congress must enact procedural reforms to insure fiscal restraint in future years. The Fiscal Responsibility Act (S. 2374) which I sponsored, would insure such responsible fiscal policy by requiring three-fifths of the Members of Congress to approve any budget deficit and by requiring recorded votes on any tax increase, including those that are the result of inflation.

Present inflation is the result of many years of deficit spending. Inflation will not be stopped and interest rates reduced simply by balancing the 1981 budget, although that is a strong and responsible first step. Congress also must enact lasting budget reform that will restore the faith of the American public and financial community in the Federal Government's ability to restrain spending.

MEASURES TO OFFSET HIGH INTEREST RATES

Mr. President, Congress can and should act to mitigate the effects of high interest rates on the housing industry, small business, and agriculture.

A number of pending bills would help make capital available to businesses. The most important of these is the Capital Cost Recovery Act (S. 1435) that I have cosponsored. This bill will accelerate depreciation schedules for capital investments, making more equity funds available to businesses.

The Senate Finance Committee is currently holding a series of hearings on other constructive proposals to encourage capital formation by small businesses. On April 7, the Small Business Committee will conduct a hearing in Missoula, Mont., to consider small business problems, especially capital formation.

The bills being considered include S. 1481, which would provide a tax incentive for investment in a new kind of financial instrument, a participating debenture to encourage investors to participate in small businesses. S. 2168 would allow subchapter S corporations, which enjoy beneficial tax treatment, to have a larger number of shareholders. S. 2152 would allow businesses to benefit from the investment tax credit when they purchase used equipment.

The housing industry is particularly hard pressed by high interest rates. Housing starts in 1980 are expected to drop one-third from 1979.

A key source of housing loan funds, especially for low income Americans, has been tax-exempt housing bonds. Unfortunately, action in the House of Representatives has limited the availability of these bonds. The Senate should approve legislation I have cosponsored, S. 2164, that would insure continued use of the important source of housing credit that tax-exempt housing bonds provide. My proposal addresses the very real need to target more carefully and to limit the proceeds of tax-exempt housing bonds by establishing clear and focused guidelines for the use of these bonds.

The emergency home purchase assistance program, commonly known as the Brooke-Cranston program, which Congress enacted some years ago also must be updated. This program provides a subsidy to reduce interest rates on FHA, VA, and conventional mortgages when economic conditions are having a severe impact on the housing industry.

The Senate Banking Committee has reported a bill, S. 2177, that would update and modernize the Brooke-Cranston program. It is important that this legislation be approved by the full Senate so that this tool is available to offset the impact of high interest rates on the housing industry.

Finally, Federal actions can help make credit available to agricultural producers. Congress has already taken a necessary first step by approving the Emergency Farm Credit Act. This legislation extends the economic emergency loan program administered by the Farmers Home Administration and also increases the amount of loan funds available.

In addition, legislation must be enacted to increase loan rates for agricultural commodities. Federal loans through the Commodity Credit Corporation are a key source of agricultural credit. Loan rates must be increased to offset the impact of the recent Soviet grain embargo which has driven down farm prices and to provide adequate credit to cover sharply rising costs of production. At a minimum, the wheat loan level should be increased to $3.90 per bushel and the feed grain loan level to $2.50 per bushel.

SUMMARY

Mr. President, in its zeal to curb inflation, the Federal Government must avoid crippling key sectors of the economy; small business, housing, and agriculture. This can be done by enacting responsible fiscal policy that will minimize the need for a restrictive monetary policy. In addition, Congress must enact legislation to provide additional credit in key sectors.

Mr. BENTSEN. Mr. President, in summation let me say I am very appreciative of the substantial number of my colleagues who came over here expressing their concern, their interest, and their thoughts about what we should be doing.

Obviously, the first thing we have to concentrate on is balancing the budget. But we must understand that balancing the budget by itself is not enough. We have to have a comprehensive set of policies to increase savings in this country, to increase investment, to increase productivity, to reduce the cost of regulation, to train those workers who are structurally unemployed, not by stimulating the entire economy but by targeting in on them. We need to reduce the use of imported sources of energy, and to do some new thinking in this country about how to break down the adversary relationship among business, labor, and government. We need to take a page out of the book of Japan, France, Germany, and many of our other competitors where business, labor, and government work together in a coordinated policy to increase exports and to hold down inflation.

Those recommendations are in the 1980 annual report of the Joint Economic Committee, and the administration ought to act now to implement them and not wait for the recommendations of its Commission for the eighties. The time is too short; the time for action is now.

I thank the distinguished leader for the time.

The PRESIDING OFFICER. In my capacity as a Senator from Nebraska, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STENNIS. 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 BUSINESS

Mr. STENNIS. Mr. President, I want to be recognized, please. I do not know what the time matter is. Does the Chair have a time limitation?

The PRESIDING OFFICER. There are 33 minutes remaining in morning business.

Mr. STENNIS. I will take about 7 minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

THE SOUTHERN PINE BEETLE EPIDEMIC

Mr. STENNIS. Mr. President, I want to use this immediate occasion to further alert the Senate and the Nation regarding a serious problem in the southern pine forests which could have a very damaging impact upon our Nation's supply of wood, lumber, and other forest products.

I make reference to the serious and widespread outbreak and infestation by the southern pine beetle which is ravaging the forests of the South which provide about 50 percent of the wood utilized in the United States.

It is difficult to overstate the severity of this problem or the importance of southern forests to our national economy and culture.

Mr. President, while this is not a new invasion of a new and different insect, there are many different kinds of pine beetles, this type is particularly devastating. It has survived from year to year for many years and does not ordinarily attack in what is called epidemic proportions. But, as I say, it has survived, and when it is hitting with increased volume and tenacity, it can be very devastating. It is very difficult to cope with it. It is hardly controllable by any known means now. I do know, by personal experience, how it operates and something of how devastating it is.

In 1978, the South harvested 6.8 billion cubic feet of wood. The majority of this harvest was forests owned by 2.2 million private landowners. A third of America's forest industry workers are employed in the South, annually earning a payroll of $2.4 billion, manufacturing products worth $11.8 billion. Southern forest industries produce 25 percent of the Nation's softwood lumber and 50 percent of its hardwood.

When I refer to the South, Mr. President, I am not talking about this as a southern problem, or seeking a remedy for it as an area, but I am talking about it as a source of our forest products.

The South also produces 60 percent of the Nation's pulpwood, 62 percent of its paperboard, 5.6 percent of its newsprint, 29 percent of its softwood plywood, and 40 percent of its hardwood plywood. By the year 2000, the South must produce twice the amount of timber in 1978 if our economy is to continue to enjoy our current level of benefits. The southern forests are absolutely critical to our housing, container, and paper industries.

As evidence of this, Mr. President, in the last 10 years we have inaugurated the forest incentive program and have appropriated money for it every year. It is based strictly on the Nation's needs, not the area, for forest products for the Nation. That program is recognizing the necessity of getting more acreage into production, more particularly pine acreage, and, more particularly, to try to get the idle land of thousands and thousands of private owners into timber production.

When I say "idle land," I do not mean all of the land that they own is idle, but, say they own 150 acres of land and maybe 40 acres of it would be what we might call idle.

In that area of the South, the southeastern area, particularly, the growing season is long. The waterfall is plentiful, up into 50-odd inches, with some areas above that. So you have the moisture and the long growing season. That is where the production comes in larger quantities per acre. More particularly now is that true under the modern methods of tree farming. Thus, graver are the beetles' destructive influences.

The southern pine beetle is the most spectacular and destructive of the southern forest insects. This small beetle breeds under the bark of a tree and spreads a fungus which infects the live cells and chokes off the flow of sap to the tree's growth system, leaving in its path a dead and decaying forest.

I know these facts. I have seen them, I have observed them, and I have lived with them. It is in my home community now, on land that I have known all my life. There is no doubt about the creeping paralysis of this insect. This insect can kill a tree within 30 days from initial infestation and in warm weather sweeps through a forest stand with amazing speed.

I visited a small forest last fall, in September, and examined parts of it. We judged through the winter it would be safe. Winter months were coming and no infestation was there. Less than 60 or 70 days later we found three infestations within that area that we visited, where the beetles were rapidly infecting the trees and the trees were actually dying.

Well, winter finally came, and that stopped their intense activity.

Since 1968, it killed about 800 million cubic feet of timber. The last outbreak of this destructive insect peaked in 1974, killing 176 million cubic feet in 13 States which included Virginia, North Carolina, Tennessee, Kentucky, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Florida, Oklahoma, and Texas.

In the past year, about 125 million cubic feet of timber were killed, signaling another outbreak of the southern pine beetle. This outbreak appears to be more explosive than the severely destructive epidemic which started in 1972. In a recent survey of the southeastern forests, the U.S. Forest Service reported finding 20 newly infested trees to every beetle-killed tree. At the present, the situation looks serious in Alabama, Georgia, North and South Carolina, and Mississippi.

It is estimated that if this current infestation is not brought under control this epidemic will destroy a billion cubic feet or more of timber, before it is over, unless prompt action is taken to control the spread of this destructive pest.

In order to preserve our forests and insure the future production level required of them, it is imperative that an aggressive short- and long-range forest management program be pursued. In the short run, control of the southern pine beetle epidemic is absolutely essential if our pine forests are not to be destroyed or severely damaged.

The cooperation and prompt action of the Federal and State governments and private landowners is essential and vital to achieve effective control of this beetle epidemic.

I urge forestry officials and landowners to take immediate action to arrest the spread of the current infestation. The warm spring and summer months will bring increased beetle activity and further destruction unless their breeding cycle is interrupted.

To prevent future epidemics, the Federal and State forest agencies and private landowners must engage in an intensified long-range effort of research and forest management.

In this regard, I urge that an aggressive program to test new methods of forest management and pest and disease control be implemented.

I plan to appear before the appropriate committees and subcommittees to ask for a special research program of timber thinning of experiments for the Southeast. I ask for the support of my colleagues in this effort. Specifically, I urge that the Senators who have forests within their State which are suffering destruction from the southern pine beetle also appear before or otherwise contact the appropriate committees to urge full and prompt assistance in connection with this problem. I am convinced that our timber stands are a valuable resource which must be maintained in a healthy productive condition for the future prosperity of our Nation.

Mr. President, this is not seeking any large sum of money, although for the small landowner, there is little that he can do about this pest. He can watch the acreage that he has and cut out the area that is affected as early as he can. But this beetle moves in a strange way. They hit in mysterious places. They do not tarry too long in one spot. Even though I have heard of as much as 40 acres being destroyed in one unit, more frequently, they move on after destroying 1, 2, 3, 4, or 5 acres. But it is devastating and it is complete. The dead product there, of course, is virtually worthless.

The only thing the small landowner can do, as I say, is to watch it and then try to watch the area on the outer circle of this affected area and go in there and cut that down. He can market it after it has been stung, but before it has started wilting—I use that term—and get full value for it, if he gets to it early enough and has a buyer and there is enough there to justify cutting out a

road and so forth. But it is highly unsatisfactory.

Good progress has been made by having small airplanes systematically travel the lines there, with pilots who are trained in discovering the affected trees and also keeping up with the area, making the proper records and reporting back. Then, surface, riders from the State or county forestry commission go out and try to trail down this affected area. There is a possibility of using highly scientific instruments that can detect any variance in the state of growth or the health of a tree and locate better these suspicious places. But the big point is that it almost defies control by the small landowner. Large area companies have their own planes, for instance. But it is a highly expensive way and it is a losing game altogether for them.

I know that some good can be done by an intensive short-range and long-range experimental and research program that I think can be capably done by the U.S. Forest Service in cooperation with the State forest services, many of which are very good indeed, coordinated with the county foresters where they have them.

But I warn now that this is a peril and whatever remedy can be found, there is no time to lose and it would be a very fine investment, as has been proven in other cases of like kind, where the Department of Agriculture and other branches have been successful in finding a remedy to check and, maybe, finally destroy insects of this kind.

Incidentally, I am satisfied from what I know about it that, under the research work of the Forest Service and the work of the forest services in the various States, we are breeding, so to speak, a superior tree and have been at that for 30 years or 40 years, producing a tree that is more immune from insects, more disease resistant than heretofore. That, in itself, is making tremendous headway in overcoming the insects. But that is a long, long process. It could take 30 or 40 years to produce specimens of that kind, at the least. But the average seedling that is being planted today, looking to a well-managed forest, is far more likely to resist insects of the kind I have mentioned and many others. That proves the wisdom of these research programs.

So, my idea is to get this before our colleagues here. I plan to send a copy of these remarks in which the statistics are believed to be accurate, having been searched out by competent people—to get that on the news desks, newspapers, radio, even TV, and get it noised around, get the knowledge spread. Then we can begin, with the modest amount of money being provided for this special research program that is carried on, not to protect a individual's land or a subsidy in any way, but to carry out an honest, far-reaching research project that will mean billions of dollars to the American economy in years to come.

Even though I was familiar myself, in a way, I was made aware of the great volume of forest products we are now using. That is, not boards to build houses, but I counted the other morning, at a very ordinary breakfast that I was having, seven different items there that were made from pulpwood, like the container for the milk. These are items that, 10 or 15 years ago, were not even in use. All that indicates the growth of this industry and the way it serves the needs and convenience of the American people.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

(Earlier the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 1 hour, and that Senators may speak therein.

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

JESSE OWENS

Mr. BUMPERS. Mr. President, I just want to take these 2 minutes, if I may, to say that I have had a lot of sport heroes, from my childhood up to this date, but I can say in all candor that Jesse Owens, to me, was probably the greatest hero of all.

I was a child when the 1936 Olympics were held, but I can recall seeing newsreel film of Jesse Owens standing on the podium and saluting. I can recall the newsreel film in which he spoke very articulately about how great the games were and how much he had enjoyed participating.

I never realized until later that he was exploited for a short time after that by people who tried to take advantage of his popularity.

It is customary sometimes for the President to attend a funeral of a national hero. This is one funeral that I thought the President should have elected to attend.

I do not know of any man in the history of this country who has done more for his country and his race than has Jesse Owens, and I just wanted to say that extemporaneously for the record.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended for 5 minutes and that Senators may speak therein.

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

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

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

DEREGULATION: A SUCCESS DESPITE SURGING FUEL COSTS

Mr. PERCY. Mr. President, over 17 months have passed since President Carter signed into law the Airline Deregulation Act of 1978. The time has come for Congress to assess candidly and objectively the results of this legislation.

A review is particularly timely because a few airline executives have blamed higher fares, declining profits, and service changes on deregulation. Another school of opinion, however, has made a strong and convincing case that under deregulation, the traveling public and the airline industry have fared exceptionally well, despite a battery of unprecedented adverse developments.

On February 11, and 12, 1980, Aviation Week and Space Technology magazine sponsored a superb conference on international air transportation in Washington, D.C. Some 130 persons heard scores of expert speakers debate the myths and realities of airline deregulation. Almost unanimously, the airline executives and industry analysts gave domestic deregulation high marks.

Typical of the comments, was a speech by C. E. Meyer, Jr., president and chief operating officer of TWA, who surprised many in the audience by admitting he was a "born again" deregulator. Mr. Meyer is so enamored with the benefits of deregulation for the industry that he wants a speed-up of the current transition period timetable from 1985 to the end of 1980. Although an opponent at the time of deregulation legislation, Mr. Meyer said:

> I applaud the deregulation act and the changes it has brought to our industry. I am now a firm believer in the virtues of deregulation . . . converted by experience . . ."

Mr. Meyer said:

> For my own airline, it (deregulation) has meant that after long years of unsuccessfully seeking new authority that would let us rationalize the imbalances in our route system, we've finally been able to begin reshaping its structure along potentially more productive and more profitable lines.

However, Mr. Meyer does have one major complaint: The CAB has been tardy in permitting the carriers to pass along costly fuel price increases to their passengers. I understand that recently the Board has adopted a new, and much more reasonable system of permitting bimonthly fare increases which should help to alleviate this problem.

Col. Frank Borman, chairman of Eastern Airlines, who also originally opposed deregulation legislation, like TWA President Meyer, has told me that he, too, has changed his mind and is a full-fledged supporter of less government regulation of his industry.

The chief executive officers of United

Airlines and Pan Am also praised deregulation. Both carriers were vigorous and effective supporters of deregulation, particularly United which went against most of the industry to fight dauntlessly for airline regulatory reform. Richard J. Ferris, United chairman, commented in a letter to me that:

Deregulation is desirable in good times but it is essential in difficult times. The airline industry is far better able to cope with inflation, strike recovery, and traffic slumps with less regulation.

A few former and present airline executives have blamed higher fares and depressed profits on deregulation. Yet, some experts believe fares would be higher and losses greater absent the operating efficiencies made possible by deregulation.

One of those experts is George C. Eads, a member of the President's Council of Economic Advisers. He documents the surge of productivity that commenced when former Civil Aeronautics Board Chairman John Robson began courageously to loosen Government regulation of the airline industry in 1977, when deregulation had little support.

Mr. Eads points out that between 1973 and 1977 when the carriers were tightly regulated, weighted input prices for such items as fuel, labor, aircraft, and financing, rose by 56 percent. These were reflected in unit costs per revenue ton-mile that rose by 38 percent and average fares that increased by 32 percent. Between 1977 and September 1979 in the deregulated period, weighted input prices rose by 35 percent, but because of productivity gains, unit costs per revenue ton mile rose by a mere 10 percent, and fares by 8 percent.

Airlines increased their productivity under deregulation, according to Mr. Eads, because of an increase in efficiency in the use of their aircraft and employees. Load factors rose from 56 percent during the first 9 months of 1977 to 65 percent during the comparable period in 1979. The airlines increased the number of seats per aircraft by 9 percent for the DC–10's and L–1011's and by 4 percent for 727's. The airborne hours per aircraft rose by 12 percent. Employee productivity rose by 12 percent per revenue ton-mile.

Mr. Eads said the new role of price competition is one factor in the improved airline performance in the post-1977 era. When faced with similar rises in input costs in the early 1970's, Mr. Eads points out that:

The CAB permitted capacity reduction agreements as a new invention to enhance productivity. Although they may have improved fuel efficiency by a modest amount, the evidence on this point is highly ambiguous . . . they were no match for the improvements stimulated by the relatively free play of the market forces.

Additionally, the pre–1977 Civil Aeronautics Board felt that the demand for air travel was inelastic and that the airline industry had to be carefully kept in check lest it engage in "destructive" price cutting competition. The pre-1977 CAB was proven wrong on both counts. Today, a large number of discretionary travelers who have driven on their vacations or family visits are switching to air travel because of attractive discount fares. USAir, an airline that has consistently offered a wide range of deep discount fares, has reported a profitable February, for the first time in its history, which goes back to 1949 when it flew under the colors of All American Airways and later Allegheny Airlines. This profitable February came despite a 100.2 percent increase in fuel prices from a year earlier.

I would like to submit for the RECORD Mr. Eads' perceptive remarks and a summary memorandum.

Mr. President, in 1979, the airlines earned $564 million in profits according to James C. Miller III, a noted economist and resident scholar at the American Enterprise Intitute. Some executives claim that deregulation is responsible for the sharp drop in earnings from 1978. Yet 1979 was a year of unprecedented turmoil in the industry that included a doubling of fuel prices, the grounding of the DC–10, and lengthy strikes at United Airlines, Ozark Air Lines, and Hughes AirWest. By way of comparison, in 1975, when the carriers were also faced with escalating fuel prices, (but almost none of the other problems) they lost $84 million. At that time, they were heavily regulated and could not quickly raise fares to reflect higher fuel costs, rationalize their route systems by adding new routes, to draw new passengers by offering attractive fare discounts.

Although many communities have lost jet service, they are now better served by frequent, well-timed commuter service. A speaker at the recent aviation conference, Herbert D. Kelleher, chairman of the board of Southwest Airlines, Co., analyzed the "myths or shibboleths" still being offered in defense of the regulatory regime. He squarely addressed the issue of abandonment of service under deregulation in small communities. He pointed out that up to 200 small towns were abandoned under the prior heavily regulated system and the CAB did not lift a finger to stop the carriers from pulling out of communities.

Even if a community was served under subsidy, it was never guaranteed well-timed service. Mr. Kelleher pointed out that flights could land at 6:30 a.m. or 8:15 p.m., or even midnight. Under deregulation, for the first time, we have guaranteed air service for small and isolated communities, including 12 in my own State of Illinois. I applaud the recent action of CAB Chairman Marvin S. Cohen in guaranteeing all regions of my State well-timed and convenient air service.

I take exception to a recent newspaper advertisement that claimed the "Red Barons" of deregulation shot Ozark Air Lines out of the skies over Galesburg, Ill. An examination of the facts reveals that no one shot Ozark out of the Galesburg skies. Instead, on August 13, 1976, Britt Airways entered into an agreement to take over Ozark's $225,000 annual federally-subsidized service into Galesburg. Although Britt refused any Government subsidy, it increased the number of flights by 150 percent. The number of passengers tripled in less than 6 months. My constituents in Galesburg are delighted with the frequent service provided by Britt Airways and do not want to return to the two flights a day provided by Ozark.

While it is true that some communities have lost pure jet service, it is just not economical today for large jet aircraft burning 90 cents a gallon fuel to fly into smaller communities where 20 or fewer passengers are boarded. I agree with Mr. Kelleher that the Government should not and must not subsidize glamorous, but inefficient jet service.

Another benefit of deregulation has been the creation of new scheduled airlines.

In my own State of Illinois, Midway Airlines, after only 4 months of operation, has saved 100,000 passengers over $2.5 million in fares. Midway is already providing low fare service to Detroit, Cleveland, and Kansas City, and around June 1, 1980, will begin nonstop jet service from Chicago-Midway Airport to both Washington-National Airport and Minneapolis/St. Paul.

The Washington service will help reduce the cost of travel to all travelers, including Federal employees. The cost of at least one flight each weekday and all weekend flights will be $73—40 percent under the projected June standard industry coach fare of $124. The other three weekday flights will offer travelers a 20-percent discount. All of these discounts are offered with no preconditions—no advance purchase, no minimum/maximum stay, and are available for every seat.

The number of Midway employees is expected to increase from 230 at present to 300 by June 1, 1980. They will be drawing $5 million in annual paychecks that would never have been paid without deregulation. In October, Midway Airlines will begin service to Philadelphia and either St. Louis or Memphis.

Mr. President, those of us who supported deregulation legislation never promised it would be a panacea—that it would magically remove problems of escalating costs faced by any American business. However, now at least the airlines have the opportunity to develop efficient and competitive operations. It is entirely possible that during the transition to a market-guided industry, some carriers will suffer financial losses. In the past, when major airline decisions on fares and routes were virtually made by the CAB, inefficiencies were perpetuated.

Without deregulation, I am afraid that the airline industry today would be in much worse shape than is evident today. As Southwest Airlines' Mr. Kelleher said:

In my opinion, the economics of our present situation have completely overwhelmed the politics, and domestic, Federal deregulation of the airlines was enacted just in time to save the industry and the consumer from a holocaust.

Holocaust may be strong language, but in view of the shocks that have swept the airline industry in 1979, the industry's continual overall vitality and growth is the best testimonial to the benefits of deregulation.

I ask unanimous consent to print in

the RECORD, letters I received from Richard J. Ferris, chairman of United Airlines; Col. Frank Borman, chairman of Eastern Airlines; and William T. Seawell, chairman of Pan American World Airways; a speech and memorandum by George C. Eads, a member of the President's Council of Economic Advisors; a memorandum from CAB Chairman Marvin S. Cohen to President Carter; a speech by Herbert D. Kelleher, chairman of the Board of Southwest Airlines; a presentation by Kenneth Carlson, vice president of Marketing of Midway Airlines; a thoughtful and well-researched analysis of deregulation by James C. Miller III, a resident scholar at the American Enterprise Institute; and a superb article on deregulation in Barron's by Thomas G. Conlan.

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

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: As you know, despite my earlier reservations, I now believe airline deregulation was good for the industry. There are risks involved, but, on balance, they are more than offset by our freedom to manage our companies—to more efficiently allocate resources and to price our product in accordance with market conditions.

Eastern, for example, has responded to liberalized entry opportunities by expanding to the West. We have initiated service to Albuquerque, Phoenix, Tucson, Salt Lake City and San Francisco and will begin service to Denver in December. In addition, we have entered the Atlanta-Norfolk and Atlanta-Rochester markets to replace United, which has cancelled all of its Atlanta service.

This expansion program serves three purposes: It gives us access to a rapidly growing area of the country; it capitalizes on the basic strengths of our route structure in the East; and it permits us to use our resources more productively.

At the same time, we are facing intensified competition in our traditional markets. United, for example, is entering the Chicago-Florida market and expanding its Great Lakes-Florida service. TWA is coming into the Northeast-Florida route. For these carriers, Florida represents an opportunity to offset their traditional summer peaks by redeploying capacity to Florida in the winter.

Of course, what is an opportunity for one carrier represents a competitive problem for another, and a corollary of freedom of market entry is freedom of exit. Since most carriers are still in the midst of a restructuring process, it may be some time before an accurate assessment of the net effect can be made.

One thing I would caution against is drawing any conclusions from the results of the past two years. In 1978, of course, the industry earned record profits, and many people pointed to that as vindication of deregulation. Now that profits have dropped sharply, these same people are pointing to economic conditions and fuel prices as the cause.

I agree that our current financial performance is a result of our inability to keep up with skyrocketing fuel prices. Deregulation has had little impact. Conversely, last year's profits were a result of a booming economy, not deregulation.

I suspect that, in the long run, it will be economic conditions, rather than the degree of regulation, that will be the primary influence on industry performance. In a sense, that is the best argument for deregulation. If the impact of regulation is minor, why should we perpetuate it.

Sincerely,

FRANK BORMAN,
President.

UNITED AIRLINES.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Since my letter of November 30, 1979 the transition to less regulation of the airline industry has been marked by noteworthy events. As before, the key areas are service, price and small city service.

In the service area, some slowdown in the change in number of departures is shown by a comparison of the March, 1980 and March, 1978 OAG listings. When we compared October, 1979 with October, 1978, total departures (nonstop flights) were up 9 percent. Now, comparing March, 1978—before deregulation—with March, 1980 departures are up 12 percent. This increase occurred despite high jet fuel prices and soft demand for air travel that prompted carriers to trim schedules during this winter season. United's average daily February statistics tell the story: Departures were down 16 percent and passenger volume was down 23 percent.

Other carriers similarly pinched between high costs and low traffic have also curtailed production. There are some bright exceptions: Piedmont's traffic is up 39 percent; Airwest's, is up 31 percent; Frontier's, is up 12 percent (its 56th consecutive month of growth); and Southwest is up 31 percent. As a group the regional carriers are doing very well. Since deregulation all regional carriers have obtained route authority to all three coasts: Atlantic, Gulf and Pacific.

Industry fuel costs have increased 93 percent from 40 cents per gallon in January, 1979 to 77 cents per gallon in January, 1980. Basic coach fares increased 30 percent in the same period. However, a wide variety of discounted prices are available. The CAB reports that half of all travelers in 1979 used service priced below coach levels. Even as fuel prices push up basic fares, plenty of air travel bargains remain.

The problems of service at small communities has greatly diminished in the last few months. United's notice of service termination at Bakersfield, Modesto and Stockton caused a good deal of concern. Recently, a well managed and well financed carrier—Golden Gate—has started a comprehensive pattern or service linking these and other cities with San Francisco. Aspen Airways and Swift Aire now provide 13 flights between Bakersfield and Los Angeles to replace United's three flights.

Here in Illinois, United will improve Moline-West service on April 27 and reduce Moline-Chicago flights from 5 to 2. The community's concern about United's action has been significantly allayed by announcements by Britt Airways and Mississippi Valley Airlines of high frequency Moline-Chicago service with good equipment. Moline should have better service this summer than ever before.

There are problems in this transition period to less regulation. But, through the combined efforts of the CAB, community leaders and airlines, problems are being solved and the public is being served.

And, one particular point is becoming quite clear: Deregulation is desirable in good times but it is essential in difficult times. The airline industry is far better able to cope with inflation, strike recovery and traffic slumps with less regulation.

Sincerely,

RICHARD J. FERRIS,
Chairman.

Hon. CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PERCY: This is in response to your letter requesting Pan Am's assessment of the impact of airline deregulation.

The Airline Deregulation Act of 1978 addressed itself primarily to domestic aviation. Thus, its impact on Pan Am which, prior to its merger with National Airlines, operated over 95 percent of its revenues passenger miles in international air transportation has been less significant that on the other trunk carriers.

Our merger with National was financed on January 7, 1980. We are engaged in the difficult process of joining the two companies into one. When completed, Pan Am will have the domestic system it has sorely lacked enabling it to become a full-fledged participant in the deregulated domestic environment.

To the extent that domestic deregulation has impacted Pan Am, the effect has been largely favorable. Pan Am now operates several domestic routes, mostly in conjunction with its international services. For example, we operate today a daily Houston-New York-London flight and a daily New York-Miami-Guatemala City flight. It would be fair to say that deregulation made it easier for Pan Am to obtain the domestic certificate authority it now exercises.

Also, domestic deregulation has eliminated, to a large degree, government interference with management's price setting function. Most importantly, the Airline Deregulation Act created a mechanism by which domestic carriers can pass through their increased costs such as fuel price increases without the need for governmental approval and the delays incumbent to that approval. In addition, carrier management was given much greater discretion to experiment with domestic low fare offerings. Pan American has taken advantage of this opportunity by offering fares to the domestic passengers on its international flights that provide a considerable savings.

I hope this information will be of assistance to you.

Sincerely,

WILLIAM T. SEAWELL.

THE ENHANCED ROLE OF PRICING IN AIRLINE COMPETITION

(By George C. Eads)

In 1938, the Congress of the United States, believing that airlines somehow resembled railroads, decided to regulate them as though they were. It established a politically-balanced, independent regulatory body and gave that body power to control maximum and minimum fares, entry into and exit from individual city-pair routes, and some—but certainly not all—of the conditions of service. In 1978, recognizing finally that airlines are not at all like railroads, but possibly fearing that they might become so unless appropriate steps were taken, Congress reversed itself, and began phasing out the elaborate regulatory apparatus it had established forty years earlier.

The purpose of this conference is to evaluate the results of that change. It should go without saying that, just as a conference held in 1940 to evaluate the results of the 1938 Act would probably have missed many of the longer-run consequences that it eventually would produce, so are we unlikely to be able to predict with a high degree of precision what the industry will look like forty years from now as a result of being freed from regulation.

However, certain trends are evident already, and they are worth reviewing.

One that has received widespread attention, especially by those who are skeptical

of regulatory reform, is that, after falling throughout 1978 and into early 1979, average fares began rising. It is said that this result runs counter to the claims made by the advocates of airline deregulation and, indeed, proves that deregulation is a "failure."

This is simply wrong. Airline fares have gone up recently because the prices airlines must pay for factor inputs—fuel, labor, aircraft, financing—have money up. Deregulation does not render an industry immune to such factor price increases. What it does do is minimize the extent to which these increases get translated into increases in unit costs, and, thereafter, into increases in fares. It does this by opening an industry to the forces of competition. These forces ensure that the airlines combine various factors of production in ways which maximize their productivity.

Let me spend a few moments reporting and enlarging upon an analysis of recent airline performance contained in our January 1980 Economic Report.

The analysis begins by stating the incontrovertible—that average airline fares have indeed risen. As of September 1979, average fares for the domestic trunklines were 8 percent above their 1977 levels. (We chose September 1979 as our cutoff since it was the latest date for which cost data were available.)

Over this same period, average weighted input prices for the airlines (that is, a composite index of the prices of all inputs—fuel, labor, aircraft and engines, financing and otherweighted by late 1976 input shares) rose by 35 percent.

We are all painfully familiar with what has happened to fuel prices. By September 1979, they were 93 percent above their 1977 level. But fuel was not the only input that cost more. Labor costs (wages plus fringes) rose by 24 percent; the ownership cost of aircraft, by 18 percent.

Yet airline unit costs did *not* rise by the full 35 percent increase in input prices, but only by 10 percent. What made this possible was improved productivity—an improvement attributable in large part to the increased freedom brought about by deregulation.

How did the airlines increase their productivity? Primarily, they increased the efficiency with which they used their primary capital assets—their aircraft. Load factors rose from 56 percent during the first 9 months of 1977 to 65 percent during the comparable period in 1979. The airlines increased the number of seats per aircraft by 9 percent for the large DC–10s and L–1011s; and by 4 percent for their 727s. They used their aircraft fleets more intensively. Airborne hours per aircraft per day rose by 12 percent.

But the productivity of other inputs rose also: revenue ton-miles per gallon of fuel rose by 13 percent. Revenue ton-miles per employee rose by 12 percent.

To be sure, all this was not without its costs. As we observe in the Report, the level of passenger comfort has declined somewhat, certain amenities have been curtailed, and getting an airline reservation agent on the telephone is not as easy as it once was. However, considering that passengers are continuing to flock to airlines in record numbers, it is reasonable to conclude that these reduced amenities have been more than made up for by reduced fares.

Last year was not the first time that the airlines have had to cope with sharply rising prices for factor inputs. Between 1973 and 1977, weighted input prices rose by 56 percent. However, during this earlier period, there was not the offsetting productivity performance, and unit costs rose by 38 percent. Fares rose by 32 percent.

No one would claim that the only difference between the two periods was that airlines were tightly regulated in 1973–77 and much more loosely regulated in 1977–79. Furthermore, events have not had time to fully play themselves out. But the differences in productivity performance between the two periods are striking.

Load factors increased during both periods, but during the later period—the period of deregulation—the average annual rate of increase was over 4½ times as large as during the former. The rate of growth in ton-miles per employee was 50 percent greater under deregulation; the increase in revenue ton-miles per gallon of fuel, 45 percent greater.

Why should deregulation make such a difference? I believe it can be directly traced to the increased role that price competition plays as an element of airline competition now that the CAB's control over fares has been substantially eased.

From a purely theoretical standpoint, pricing flexibility is not an absolute prerequisite for efficient airline operation.

In a paper published in the early 1970's, I demonstrated that a Civil Aeronautics Board (CAB) composed of omnipotent, omniscient, benevolent dictators could generate industry performance at least as good as the market working alone. That is, both operating efficiency and fare levels, could, in theory, be equivalent.

Although the CAB has had over the years its share of benevolent members, I don't believe any of the folks who occupied offices on the top floor of the Universal Building could be considered omniscient. And Congress, by restricting their authority in certain vital respects, guaranteed that they would not be omnipotent. The Board could indeed control fares. It could exercise a limited degree of control over individual carrier and even industry profitability through control over city-pair entry and the balance of strong and weak routes. But it could never achieve the regulatory ideal I mentioned. To do so, the Board would have needed to be able to control all aspects of service quality—especially flight frequencies. If possessed with sufficient knowledge, such a super-CAB would have been able to dictate to the airlines just the right combination of flights and fares to maximize consumer welfare while producing for the airline industry the appropriate rate of return to attract needed capital. Indeed, it would not have been necessary to have an "airline industry" at all—a single monopoly carrier would have served as well.

But, as I have noted, the necessary conditions were *not* fulfilled. Given the limited powers of the Board and the limited knowledge that even the most well-intentioned group of human beings could possess, the most that the Board could hope to accomplish was to not mess things up too much.

Unfortunately, it did occasionally occur to certain Board members that they ought to try to tinker with the system in more fundamental ways. Thus it was that during the earlier period of rising factor prices I cited, amid industry pleas to "do something," the Board hit upon a new invention to enhance productivity—the capacity reduction agreement.

These agreements, which, but for the Board's ability to "bless" them, would have constituted per se violations of Section 1 of the Sherman Act, did indeed raise load factors—at least on the specific routes to which they applied. And they may have improved fuel efficiency by a modest amount, though the evidence on this point is highly ambiguous. But as we can see from the comparisons I cited, they were in no match for the improvements stimulated by the relatively free play of market forces.

Why did the Board resort to restrictions on competition as a cure for rising input prices? In part it was due to the general suspicion of competition that I have noticed somehow infects most individuals appointed to regulatory bodies. Charged with controlling the destinies of great industries, and armed with powers to collect vast arrays of data on industry performance, they believe that they might just be able to outwit the market. In the instance I am describing, the Board became convinced somehow that airline competition is inherently "destructive." According to this doctrine, without the guiding hand of the Board, carriers would overschedule, driving actual load factors well below break-even levels, thereby percipitating widespread bankruptcy within the industry. (Curiously it never occurred to those proposing this strange theory to compare it to the actual industry behavior. Capacity decisions had never been controlled by the Board, yet no signs of "destructive competition" were evident.)

The other side of the coin was the widely shared belief in the industry that pricing was not an effective competitive tool. The demand for air travel was considered "inelastic." That is, a one percent cut in fares would lead to a less than one percent increase in traffic. (The Board's official elasticity estimate was 0.7). Although certain forms of highly discriminatory pricing might indeed improve carrier revenues, the "destructive" nature of airline competition meant that such price-cutting tendencies that might emerge in the industry had to be kept carefully in check.

My examination of company records of the period reveals that individual carriers had considered—and rejected—many of the pricing innovations that have now become commonplace in the industry. Who could blame them? Given the perception that traffic was relatively unresponsive to price, plus the threat that, either on its own volition or upon complaint (usually by a competitor), the Board could suspend and investigate a proposed fare, it is little wonder that pricing took a back seat to service competition. I suspect the same thing would happen if, prior to cutting the prices on men's suits, Woodward and Lothrop had to persuade Garfinckel's not to object and, in case it did, prove eventually to a regulatory body that its proposed sale prices were "in the public interest."

I do not wish to suggest too much. As Charlie Murphy has reminded me, prior to the "Deregulation Era" pricing innovations were not unknown in the airline industry. A liberal-minded Board could—and occasionally did—encourage them. When backed up by a policy of relatively free entry into city-pair markets (even if only by established carriers), such a threat could be a powerful force spurring productivity. But the ever present threat of the Board's suspension and investigation powers, the knowledge that many proposed fare decreases had been rejected by the Board, and the preception of demand inelasticity I spoke about more often than not served to move pricing to the back seat as a competitive weapon.

Now all that has changed. Over the last couple of years airlines have been testing the responsiveness of traffic to price cuts and have found it much greater than they previously thought. They have met the challenge of building "market identity" in new markets by introductory across-the-board fare cuts. One major carrier even decided to recover traffic in the wake of a long strike—a perennial industry problem—by offering half-fare coupons. Still others have realized that seats can be profitably filled during off-peak periods if fares can only be made sufficiently attractive.

One measure of degree of change is that the opponents of the liberalization of trucking regulation now feel compelled to construct rationalizations of how the demand for trucking services is different from the

demand for airline service. The reason? I am paraphrasing, but I have heard trucking industry leaders say: "Well, everyone knows that airline traffic is highly responsive to price."

I will spare you the details, but I find these protestations remarkably similar to those advanced by the earlier opponents of airline regulatory reform. The traffic pie is fixed in size, so fare reductions merely reduce total industry revenues. Only carefully tailored price cuts, targeted at particularly price-sensitive portions of the market, can improve carrier profitability. If one carrier cuts prices, he will be immediately matched, destroying any advantage he might have hoped to gain. Sound familiar?

I do not wish to mislead you. I am not contending that the transition to full economic deregulation for the airlines will prove painless and costless. And deregulation has yet to meet its severest test—a sharp economic downturn. However, if the airlines respond by continuing to make full use of their newly-won freedom, I believe that they will emerge in better financial shape than they have from similar downturns in the past.

Indeed, let me leave you with one final thought. In a period of relative stability—in economic activity, in fuel prices, and in the overall rate of inflation—deregulation of the airlines probably would have meant a once-and-for-all downward shift in average fares. As input prices grew modestly, fares would have grown less rapidly than they would have under regulation. That would have been a pleasant but hardly earth-shattering result. However, in a highly unstable world such as we have today, deregulation—and the flexibilities it permits the airlines—is likely to mean the difference between a viable industry and one which, despite the best intentions of well-meaning regulators, would increasingly come to resemble that industry I mentioned at the beginning of my talk—the railroads. That industry too enjoyed a brief period of glory but, due largely to its regulatory shackles, proved unable to adjust to the changed realities of competition from trucks and the automobile. The airlines deserve a better fate. I believe that through timely and responsibly-designed deregulation, we have created the conditions that will ensure them one.

COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C.

IMPACT OF AIRLINE DEREGULATION ON PRODUCTIVITY

I thought that you might be interested in the attached speech I gave this week at Aviation Week's International Air Transportation Conference. It expands upon the work contained in this year's Economic Report concerning the recent performance of the domestic airline industry under deregulation. The principal conclusion is that, due to the increased productivity brought about by deregulation, the airlines have been much better able than in the past to prevent input price increases from flowing through to increases in unit costs.

The speech compares two periods of sharply rising input prices: 1973–1977, and 1977–September 1979. The following table summarizes the results:

[In percent]

	1973–77	1977–September 1979
Increase in weighted input prices	56	35
Increase in costs per revenue ton-mile	38	10
Increase in average fares	32	8
Increase in costs/increase in input prices	68	29
Increase in fares/increase in costs	84	80

In both cases, fare increases lagged behind increases in costs—but not by dissimilar amounts. The difference came primarily in productivity. During the latter period, the average annual increase in load factors was 4½ times that during the earlier period; the increase in revenue ton-miles per employee, 50 percent greater; the increase in revenue ton-miles per gallon of fuel, 45 percent greater.

I would be interested in any reaction you have to the speech.

MEMORANDUM

To The President.
From Marvin Cohen, Chairman, Civil Aeronautics Board.

This memo summarizes the results of the Airline Deregulation Act which you signed on October 24, 1978. We will meet Monday afternoon, January 14, 1980, to discuss these results as well as the current status of our joint effort with the Administration to increase competition in international aviation.

1. Fares. Solely as a result of the enormous increase in the price of jet fuel, average airline fares went up 16 percent during 1979. The price of fuel, which accounts for nearly 30 percent of airline costs, is estimated to have increased 85 percent between the fourth quarters of 1978 and 1979. Without these fuel price increases, average airline prices would have actually declined 0.8 percent between January and October 1979, although labor, aircraft, and all other input costs rose steadily throughout the same period.

This 16 percent increase in fares represents the average of all first class, normal economy, and discount fares. Not every fare has gone up by this amount, and overall consumers paid $1.5 billion less in air fares during the first 11 months of deregulation than they would have paid. Thus, for example, although fares on the Eastern shuttle have gone up 24 percent, fares on many markets are lower today than when the Act was signed. Southwest's normal economy fare between Dallas and New Orleans is 23 percent lower today than in October 1978. Finally, many discounts are still available—and 50 percent of passengers today travel at discount fares 10–70 percent lower than the standard coach fare.

2. Increased airline productivity and more efficient use of fuel. Airline deregulation has resulted in a dramatic improvement in fuel economy. Under regulation, when fares were fixed by government, airlines were able to compete with each other only by adding additional service. In the process, passenger load factors (the percentage of seats occupied) were driven down (averaging but 52.8 percent for 1970–1976), and fuel economy was poor.

Under deregulation, by contrast, carriers can now compete with one another by offering lower fares, and thus face a powerful incentive to fill up their previously empty seats. For the twelve months ended November 1979, the passenger load factor for the eleven largest U.S. airlines was up to 63.6 percent, and the volume of passengers and freight carried per gallon of jet fuel was up 33.8 percent over the 1970–76 period.

Airlines are also flying their planes more hours and adding more seats. Entry and exit freedom have allowed carriers to restructure their route systems to match aircraft to route lengths. However, with the prospect of rapidly increasing fuel costs, 1980 may bring service cutbacks, high fares and low profits.

3. Service changes. The nation's 141 hub airports serve 98 percent of its air traffic. Between September 1978 and September 1979, service, measured by aircraft departures, is up 8 percent from hub airports and up 10 percent from the 534 non-hub airports. Service is up to 3/5 of the airports and down at 1/3—mostly non-hubs. Carriers are shifting service to let supply follow demand and to match equipment with markets. The chart in Appendix A lists over 200 points of all sizes that have both more service and seats than a year ago.

On the other side, the Act's liberal exit provisions allow a carrier to withdraw unless there would be a loss of "essential air service." Although communities at first resist their loss of service (and the press has widely reported cutbacks), in most cases the remaining service is adequate or replacement service quickly appears.

For example:

Earlier this year when American and United discontinued service to Charleston, W. Va., the community was extremely upset. However, without any gap in service, USAir and Piedmont increased service in the market, offering comparable service with comparable aircraft. Providence, R.I., had a similar experience.

If the proposed withdrawal would result in service below "essential air service," the Board requires the carrier to remain until a replacement is able to provide adequate and reliable service.

Northwest Airlines had been providing limited, poorly-timed service to Jamestown, N.D. When Northwest filed notice of its intention to abandon the point, we held the carrier in until Air Wisconsin began service. Jamestown now receives several daily, well-timed flights and the traffic response has been excellent. The Mayor of Jamestown has said that Northwest's suspension was a blessing in disguise.

Our most difficult transition problems are occurring in medium-sized communities. We have adopted a very liberal interpretation of the Act to permit us to do everything possible to ease the transition at these points.

For example:

United Airlines filed notice several months ago to terminate service at Bakersfield, California. We allowed United to suspend service to San Francisco because another carrier, Air Pacific, was found able to provide reliable service. Because Air Pacific is a new airline, we required United to keep standby capacity to quickly resume service in case the replacement carrier is unable to perform adequately. Under our transition policy, we are allowing United to reduce Los Angeles service only in stages so we can monitor the reliability of the commuter replacements.

In Michigan, United plans to drop service from some cities to Cleveland and Chicago. We are working with state and local officials and may hold United in under the transition policy until adequate replacement carriers are found.

Delta has announced it will leave Manchester, N.H., and Worcester, Mass., in late April. However, three carriers in the area have expressed an interest in replacing Delta. We will not let Delta leave until replacement service is in place.

4. Industry health. In 1978, the combination of a strong economy, relatively stable fuel costs and the Board's liberal policies enabled the industry to achieve record operating profits of over $1 billion.

Steeply rising costs, the United strike and DC–10 grounding led to a drop in profits to about $400 million in 1979. It was still a relatively good year by historic standards.

To the surprise of many deregulation critics, the smaller local service carriers have done very well under deregulation. Frontier, Allegheny (USAir), Piedmont and Texas International had record profits in 1979. New entrants like Midway and Air Florida have done well and plan to expand low-fare service to new cities in 1980.

COMPETING ON YOUR OWN TERMS

(By Herbert D. Kelleher)

By virtue of our history, we at Southwest Airlines feel that we have an unusual ex-

periential basis for appraising the "Fact" versus "Fancy" aspects of federal deregulation of the airline industry.

Our corporate charter was granted in March, 1967, and in February, 1968 we received a certificate from the Texas Aeronautics Commission authorizing us to provide purely intrastate commuter air service, utilizing heavy aircraft, between the cities of Dallas, Houston, and San Antonio. Because of litigation, inauguration of our air service was delayed until June 18, 1971. Thereafter, we expanded our intrastate routes to include the Lower Rio Grande Valley, Austin, Corpus Christi, El Paso, Lubbock, Midland-Odessa, Beaumont/Port Arthur, and Amarillo. In 1971, our six and one-half month operating loss was $2,157,000. In 1978, our last year as an intrastate carrier, our operating income was $21,122,000.

Southwest became a CAB air carrier on January 25, 1979 when it commenced Houston-New Orleans air service under a dormant route award. Except for passage of the Airline Deregulation Act of 1978, preceded by, and coupled with, a newly favorable attitude towards competition on the part of the Board and its staff, we would not have taken this step. Our status as a federal carrier is, therefore, a product of deregulation both formal and informal.

The Texas statute governing certification and regulation of intrastate carriers permits as much restriction as the Federal Aviation Act of 1958. The Texas Aeronautics Commission and its staff, however, took a liberal view towards competition and therefore administered the Texas Aeronautics Act so as to promote, rather than to retard, its proliferation. Essentially, this was the philosophy manifested in word and deed by the CAB under the Chairmanship of Alfred Kahn prior to passage of the Deregulation Act, which is why I emphasize that the attitude of the regulator is at least as important as the verbiage of the regulatory charter.

At the same time that Southwest, because of restrained regulation, was "competing on our own terms," Southwest's CAB certificated competitors were also competing on their own terms. Neither their fares for intrastate passengers, their schedules, their amenities, nor any other significant aspect of their competitive service was controlled by the CAB. Consequently, they unleashed the full panoply of available competitive response, including lowered fares; service every half hour in the Houston-Dallas market and every hour in the Dallas-San Antonio market; ads implicitly reflecting upon the comparative safety of our two engine aircraft and the experience of our personnel; and many other devices, both obvious and subtle. In effect, then, except for route applications subjected to laborious administrative and judicial proceedings, we, and our business adversaries, competed in an essentially deregulated Texas environment for seven and one-half years before coming under the jurisdiction of the CAB. In fact, present CAB regulation, even under the Deregulation Act as administered by a pro-competition Board and staff, constitutes the heaviest ongoing regulation to which we have ever been subjected.

The first, and most fundamental, debt that we owe to deregulation, Texas style, is our very existence. Although the CAB received more than 79 applications for trunkline authority from "outsiders" between 1950 and 1974, it did not approve one of them. I doubt that Southwest would have proved the rule of exclusion by being an exception to it.

In 1971, when Southwest was swiftly going broke, it switched its service from Houston's outlying Intercontinental Airport to Houston's downtown Hobby Airport, which had been abandoned by the CAB air carriers in 1969. Shorthaul, non-interlining passengers want and need close-in airport service. This move saved Southwest. It was accomplished with a letter to the Texas Aeronautics Commission—no certificate amendment proceedings; no 30-day airport notice with the attendant possibility of CAB hearings; and no nonsense. The very existence of a regulatory body with power-in-the-premises sometimes, dependent upon motivation, provides a breeding ground for anticompetitive behavior and an outlet for its energies. "Litigate them out of existence" can become the incumbents' club motto.

When Southwest, because of equipment and financial limitations, could not mount enough Dallas-San Antonio frequencies to compete effectively against its adversaries, it announced a 60 day, half-price sale at $13.00 per seat. As a friend of mine in the banana importing business said: "Herb, there's only one thing more perishable than a banana and that's an airplane seat." The Texas Aeronautics Commission did not regulate fares. Consequently, we were able to implement this stratagem without delay. Unofficially, the Commission thought that it would be the disastrous prelude to an auction of our airplanes. Instead, our traffic tripled overnight; we did not have to abandon the market; and in 1979 Southwest alone carried 437,000 Dallas-San Antonio local passengers, three times the size of the entire market at the time we entered.

In response to our Dallas-San Antonio 60 day half-price sale, one of our competitors inaugurated $13.00 service between Dallas Love Field and Houston's Hobby Airport. We reacted by offering to fly a passenger at either $13.00 or $26.00. If he elected the $26.00 fare, we gave him a fifth of Chivas Regal, Crown Royal, or Smirnoff vodka. Forty percent of our passengers selected the higher fare, and for a number of months we became the largest liquor distributor in Texas. That 40% charged the air fare to their company expense accounts and took the whiskey home. One every-day commuter, of whom we carry a surprising number, requested that we distribute some other type of "premium" because his wife was grumbling about her clothes closet filling up with whiskey bottles. So we added ice buckets.

The Texas Aeronautics Commission granted us Dallas/Houston/San Antonio-Harlingen, although later one of the Members confessed that the Commission had entertained grave misgivings about the economic wisdom of this route venture. After less than eleven months of our service, the Harlingen boardings had increased from 33,000 to 107,000, or by 224%. We went to the United States Supreme Court twice in order to preserve our right to serve Dallas' downtown Love Field rather than the new, outlying and gigantic DFW Airport. The Texas Aeronautics Commission supported this endeavor because our serving DFW Airport makes about as much sense as operating the New York-Washington shuttle through Kennedy and Dulles. We won, but if we had then been a CAB air carrier, we would have been coerced into serving DFW—and into bankruptcy.

The absence of governmental meddling in Texas permitted us to start our operation and to take some unusual steps in order to preserve and make it successful. Along the way, the Texas Aeronautics Commission was sometimes tempted to intervene to save us from ourselves. Through our constant "jawboning" and its own philosophically oriented self-restraint, however, the catastrophic inclination of "arm chair generals" to interfere with "field decisions" never materialized. Even in the bureaucratic "pleasure dome" of paperwork, we were successful in convincing the Commission to accept our quarterly and annual reports in lieu of its own financial report forms. Why, we asked, should an SEC and New York Stock Exchange regulated company issuing millions of dollars in securities to the public and borrowing many millions more upon the strength of its audited financial statements be put to the added effort and expense, however small, of keeping an extra chart of accounts in order to complete forms destined for interment in an Austin closet?

In Texas, we were fortunate to have free enterprise oriented Governors who therefore appointed entrepreneurial minded Commissioners who, in turn, selected free market staffers. The next result of Texas deregulation was a new airline stimulating the overnight doubling of markets by charging fares averaging 50 percent below existing coach and directly creating additional, multiplier effect economic activity of some $500,000,000 per year, not counting the indirect economic and personal benefits conferred upon the communities served through better air transportation service at lower cost to more convenient airports. Even more significant from an historical perspective, however, is that Southwest's performance in the free market environment established by our Commission served as a benchmark against which to measure the ineffectiveness and wastefulness—for both the consumer and the airlines—of strict CAB regulation under the Civil Aeronautics Act of 1938 and the Federal Aviation Act of 1958. Thus, we feel that in some measure our example provided both an inspiration and an impetus for federal deregulation—and we are very proud of that fact.

Returning to the "Fact vs. Fancy" rubric of this Conference, I must, in closing, denounce some of the myths, or shibboleths, still being offered in praise and defense of the prior regulatory regime. Did it guarantee service to small cities? No, it did not. Some 200 such certificated cities were abandoned under subsidized regulation. Did it guarantee a reasonable level of service to the smaller cities which were not abandoned? No it did not, unless you think that two roundtrips per day with departures sometimes within one-half hour of one another or at 6:30 a.m. and 8:15 p.m., respectively, constituted "reason." Did it guarantee adequate service to cities of any size? No, it did not, based upon our experience of doubling markets within twelve months that had been served by other carriers for 30 years. Could we return to the earlier system and threby resolve some of the complaints being received by the CAB today? Only if you believe that our government can afford to support four flights by a $10,000,000 jet, burning 90¢ per gallon fuel, into "Half Way," Texas in order to accommodate 20 passengers per day.

In my opinion, the economics of our present situation have completely overwhelmed the politics, and domestic, federal deregulation of the airlines was enacted just in time to save the industry and the consumer from a holocaust. The third level carriers, freed by modification of Part 298 from the wholly artificial constraints of a 12,500 pound maximum gross take-off weight, are rushing to fill the small city void, just as they have always done in Texas; the local service carriers, now small trunks, are fulfilling the appropriate economic role ordained by their switch from DC-3's to jets; the low-fare, point-to-point carriers such as Southwest are successfully occupying a highly specialized niche; and the major trunks are acquitting the transcontinental and intercontinental responsibilities signified by their 747's, DC-10's, and L-1011's. This, to my mind, gives promise of being a far more rational and lasting domestic system than the one which preceded it. It is also, in my conception, crowned by a CAB membership and staff which act, for the most part, with exceptional speed; are receptive to innovative ideas and new methods of performing old functions; and, most importantly, recognize that industry economic health and consumer benefit are holistic rather than antagonistic.

In short, if it weren't for Texas "deregulation" carried out by an admirable Commission and staff, Southwest would not be in existence. If it weren't for federal domestic deregulation administered by an admirable Board and staff, Southwest would not be a CAB carrier. And we fervently hope that the praiseworthy foresight and courage demonstrated by the Congress and the President in deregulating a major federal industry, after 40 years under the "yoke," will continue to resist an incremental relapse into the past. In the wise words of an old West Texas saying: "Don't fix somethin' that ain't broke."

THANK YOU BOB (HOTZ)

(By Kenneth Carlson)

I don't know how many of you have read Bob Sterling's book "Wings", but if my impressions are correct about the good old days, it's a pretty fair description of how this nation's original commercial airlines were founded. Basically, a white scarf, leather helmet guy bought one aircraft and began flying the U.S. mail from one point to another. If he was persistent, he started carrying passengers, and if he was lucky he built his route system and this traffic and became an airline.

Those were the good old days. But then, the federal government got involved and things became progressively more complicated. The only basic that has remained constant from then until now is the persistent part. I don't intend to bore you with a recap of how domestic airline deregulation happened. I'll keep it simple and say that it was this change in the laws governing economic regulation of the U.S. airline industry that allowed Midway Airlines to obtain a certificate of public convenience and necessity from the Civil Aeronautics Board and begin operating November 1, 1979.

It all started in 1976 when Irv Tague and I decided the economics and politics were right for founding a brand new certified airline. We did some crystal balling and saw that, at a minimum, entry into the domestic airline system would be liberalized under the ongoing pressures for what was then called "regulatory reform."

So with application in hand, but no money, employees or airplanes, let alone airport gates, ground equipment or fuel, we asked the CAB to judge us fit, willing and able to begin low-fare, high frequency passenger service from Chicago's Midway Airport to six cities. Back in those days, things were a bit more formal at the CAB and we also had to file a petition for expedited hearing.

Even though the Board hadn't made a final decision, in the spring of 1978, Irv and I had decided we were going to get our certificate and "persistence" became our byword. We began seeking financing. But it seemed we were caught in the ultimate Catch 22. The CAB staff was telling us we might not be judged fit unless we had financing, and the financial community was telling us they would not invest in Midway until we had our CAB operating certificate.

The Catch 22 cycle at the CAB broke first. Eighteen months after filing, the CAB granted Midway Airlines its certificate to serve the six cities we had requested on a permissive basis. Less than three years after application, the Board voted to give us another 24 cities on a permissive basis. Before we flew one revenue flight, Midway Airlines had a route system comprised of 30 cities. Although it was difficult to see at the time, that was the easy part.

From the date Midway received its original indication that it would receive a certificate, April 1978, to the date we began operating out of Midway Airport to Cleveland, Detroit and Kansas City on November 1, 1979, the word "persistent" became our credo. The U.S. free enterprise system is set up to test the mettle and endurance of any entrepreneur. Although Irv and I were never foolish enough to believe we would waltz down Wall Street and pick up the $6 million we needed in capital, neither did we believe the test of our strength would be quite so stringent.

We believed we had a saleable concept: low costs and low fares, in other words, very competitive. We retained Loeb Rhoades as our financial advisors. We estimated for our financial sales prospectus that we would break even six months after start-up. That was our message to the financial community. Low cost operations and low fares plus large markets would equal an enormous return on investment. We believed it was a deal no one could refuse. We were wrong. Some refused us outright. Others were skeptical and only a few investors allowed us to meet with them and resolve the questions they had about why Midway would work.

When we began seeking our financing in April, 1978, the economy and the availability of money was tight. At the time, venture capital investments were concentrated in basically high technology companies. In 1978, only 46 companies raised capital through the public sale of stock. This compared to 568 companies in 1972. So our work was cut out for us. We were facing this tight money, high technology syndrome, and we had to educate the potential investors about the airline business as well as selling our concept.

But we just didn't go away. Early in our effort to sell the financial community, we were told that if we attracted one major investor, the proverbial bell cow, the rest of the financial herd would fall dutifully in line. That may have been true for less risk-filled capital intensive start-up companies, but we found this historical rule did not apply to starting an airline. Each venture group had to review our presentation with "due diligence."

Each wanted to know what made Irv and I think we could succeed in a deregulated environment that would allow any airline to enter any market we chose. They wanted to know how we could get airplanes when everyone knew the industry was capacity short. They wanted to know how we were going to get fuel when the word was out it was just not available. They wanted to know who our pilots and flight attendants were, who our maintenance staff would be. They even wanted to know which airport gates we had under lease.

There was another Catch 22 that took time to unravel. We couldn't buy airplanes, hire people, sign fuel contracts, and lease airport space without financing. And for a while, we didn't think we would get financing unless we had planes, people, facilities and fuel.

On the issue of competition, we explained to prospective investors that the big airlines had greater opportunities elsewhere. Today, we're still right in that judgment. Not a single carrier who threatened re-entry to Midway Airport in the Midway I and II cases has begun service.

Irv also met with McDonnell Douglas and gathered convincing arguments that airplanes would be available when the financing to buy them came through. We explained qualified pilots were available and our intention was to hire flight attendants without training so they could be trained to perform the type of service a quick turnaround operation needed. We also explained that the maintenance staff was available. We got some assurance from Washington that fuel would be available for the new airline deregulation had spawned. We also obtained assurance from airport operators at Midway, Cleveland's Burke Lakefront, Detroit and Kansas City that airport gate space would be available when we began operations.

Investors also wanted to know the management team's credentials for running a successful airline. In this respect, Irv Tague was a major sales point. Irv ran Hughes Airwest for six years. He not only ran it, he turned it from a loss operation to a profitable operation. Those were convincing credentials.

We kept answering the questions with persistence and with due diligence and the financial community kept asking more. It seemed like it went on forever. There were times when it appeared we would have to abandon the concept and abandon Midway. But we would regroup, replenish our energy and go back. Finally, the message we gave them was 'give us a conditional financial commitment and we'll satisfy the conditions except for fuel.' On this issue, we had to get fuel before any other conditional commitment would be made. That took six weeks during June and July of 1979.

On August 1, 1979, we obtained a fuel agreement and we got our conditional commitment for $5.7 million from 14 investors. The conditions were airplanes, airport space, pilots, fuel and an accounts receivable financing agreement. These investors trusted us with $300,000 which was placed in an operating account to begin screening, interviewing and hiring personnel and signing contracts for airplanes, airports and fuel. This escrow agreement was finally broken on September 27th when Jack Bowen signed a lease with the City of Chicago and the Department of Aviation for Midway Airlines to utilize its present facilities at Midway Airport.

From August 1st to November 1st, a mere 90 days, Midway Airlines went from a paper airline to an operational one. Basically, Irv and I sat down, once we knew the financial commitment was there, and made a list of every move we needed to make to become an operational airline. We not only had to buy airplanes, we had to hire key personnel so they could begin hiring the people that actually make an airline operate.

We learned all of the time. For example, we learned there were at least 19 separate labor laws we had to contend with. So we hired a professional personnel recruiting firm to screen the 5,000 applications we received for employment. 1,500 of these applications were for flight attendant positions—and people said they would be hard to find. On August 1st, Midway had seven employees, including Irv and me. By October 15th, Midway had 200 employees.

We had to choose pilot, flight attendant and ticket agent uniforms. We had to choose a logo and paint scheme for the aircraft and our boarding lounge areas. Early on, we chose an advertising agency, but then we had to pick an advertising campaign within the constraints of available capital. We had to design a marketing plan, which basically concentrated on getting as much daily TV, radio and newspaper news exposure as possible, but which also involved choosing art for 360 billboards and printed media ads as well as getting music written and recorded for radio broadcasts. We had to acquire ground equipment all the way from telephones to auxiliary power units for the aircraft. And we had to plan our inaugural ceremonies in each city. Let me tell you, time flies when you're having fun, or at least when you're busy.

Our 20 pilots began training on September 4th with McDonnell Douglas. Robert L. Smith (Captain Bob) a former Douglas Aircraft employee, was chosen to be Vice President of Flight Operations. Bob had 11,300 hours of flight time, 3,300 of those on the DC–9, which we chose for our workhorse airplane. The average Midway Captain Bob chose is 43 years old with 3,000 hours of experience on the DC–9.

Ed. A. Leiser, a 34-year veteran of commercial air transportation, was chosen as Vice President of Maintenance. Maintenance crews began training on September 10th.

Once we had Bob Smith and Ed Leiser on board, they began work on essentials—writing operations and maintenance manuals, so we could obtain our Part 121 certification from the Federal Aviation Administration. We got our Part 121 approval October 31st, one day before our start of scheduled operations. Without question, Irv, Bob and Ed deserve the credit for this overtime. If any of them had blinked once during the pre-operating stages, we would have started operations much later.

Our 22 flight attendants began training October 4th at the Trans World Airlines Breech Academy under the guidance of Carol Wimmer—a 17-year veteran attendant from Hughs Airwest who is now Midway's Director of Inflight Services.

The Midway reservations system went operational on September 15th after Don Cross, a communications expert from Illinois Bell set up all the systems. By October 30th, we were receiving 1,000 calls a day and booking 500 passengers per day for future Midway flights.

The old joke description of an airplane being several thousand parts flying in close formation became applicable to Midway Airlines during those 90 days. When I began this presentation, I said one essential you needed to found a new airline was persistence. The other essential is people. Because of the compressed time schedule, Midway had to rely on the competence of the people hired to make Midway operational.

Some of the people who made the concept "go" in the beginning days and to whom Midway Airlines owes a debt of gratitude are, besides those already mentioned, Brian Campbell and Bruce Edmondson, our financial experts who kept the cash flowing to the proper areas and told us what the score was each and every day; our Director of Stations, Jose Oller, whose responsibility for presenting the Midway concept to the outside world through efficient baggage handling, ticket sales and gate attitude was a monumental one; and our Director of Personnel, Nancy Agajeenian, who sifted through thousands of resumes, and found us what I think are exceptional airline personnel; and to each and every employee pulling together in close formation to make Midway work, and who want to continue to make it work even better.

We're only three months old and without question we can say we've a success. In just this time, we've carried more than 82,000 passengers, a record unsurpassed by any other new airline. With these kinds of results which have exceeded all our projections, we are confident we will break even sooner than expected.

[From Barron's]

AIRLINE TURBULENCE: BUT DEREGULATION OFFERS HOPE BY YEAR-END

(By Thomas G. Donlan)

One airline earns its wings every day, but not necessarily a decent return on investment. Another flies the friendly skies at a distinctly unfriendly loss. For a third, flying is what it does best, while expenses incurred on the ground are harder to handle.

Airlines, the prize exhibit of the deregulation movement, are in a widely publicized tailspin. While passenger volume remains high, nearly all costs have taken off dramatically. Thus, in 1979, although passenger traffic was up more than 12 percent and revenues climbed 17.5 percent, profits suffered the worst year-to-year drop in history. Industry earnings came in at about $400 million, down a cool $800 million from the peak $1.2-billion profit booked in 1978.

Some observers blame the bad year on the sheiks: the price of jet fuel doubled in 1979. Jet fuel, a distillate similar to kerosene, shot up from 40 cents a gallon to 80 cents. Result: the industry's fuel bill ballooned from $4 billion in 1978 to $6.5 billion in 1979.

The Civil Aeronautics Board comes in for some sharp criticism as well: the regulators were required to review airline costs for approval of general fare hikes just once every six months, and that was far too infrequent to keep up with the galloping inflation in the industry's expenses. The CAB now reviews costs every two months and is weighing still more pricing freedom. The Board itself estimates that regulatory lag cost the airline industry some $380 million in lost revenues in 1979. The real figure could be considerably higher. In any case, fares were allowed to rise about 30 percent by the end of the year.

And, no question, part of the blame for the crash of '79 belongs to the airlines themselves. Some carriers, like TWA, were caught with aging fleets of fuel guzzlers. Others, like Braniff, went on an expansion binge. Just the wrong ticket in both cases for a turbulent period of skyrocketing fuel prices.

INVESTORS WATCH

None of the industry's woes has escaped Wall Street's notice, and most airline stocks hover around their two-year lows. Other transportation issues, by contrast, have soared. Yet analysts predict a profits turnaround for the industry, possibly as soon as the second half of this year, and much better showings next year and beyond.

Still the stocks can't get off the ground. One reason might be the speed with which 1979 earnings forecasts turned to dust; never very reliable, they've become almost predictably wrong, owing largely to those abrupt changes in costs. And no doubt a formidable drag is that current quarter earnings could well be the worst for any quarter of the past two decades.

Cooling sentiment as well is lingering distrust of deregulation, a strange reaction in Wall Street, the presumed bastion of the free market. But in fact, deregulation has already saved some airlines from themselves by prompting dramatic gains in efficiency. And, although it dug pitfalls that trapped some lines, it also created opportunities that are being exploited by others, particularly the small regionals.

Still not widely recognized in the Street is what deregulation means to the investor. The CAB is no longer laying its hands on the airlines to assure even treatment. Under strict regulation, it was enough for analysts to track the industry as a unit and to view it as comprising only the 10 or 12 major carriers. Investors apparently have yet to learn that vigorous rivalry among airlines leads to winners as well as losers. Picking the winners and searching out the small company with a big future are now as vital in following the airlines as any other industry. In other words, the airlines no longer are likely to move in the market as a group, as they invariably did in the past, but rather individually, each propelled by its own circumstances and prospects.

NOT PERFECT

As the CAB's continuing control over fare boosts indicates, there is room for dissatisfaction with deregulation. It's a peculiar, politician's deregulation that permits 50% price cuts and only 5% price increases without the approval of Washington. As C. E. Meyer, president of TWA and once a deregulation foe, puts it: "I like deregulation. I'm all for it. In fact, I can't wait for it to happen."

He urges Congress to move faster than the timetable agreed upon in 1978 and put the CAB out of business by the end of this year, instead of 1985. "It's as though the law's proponents didn't believe it would really work in practice, without a regulatory cop to enforce it," Meyer says. "In a period when our fuel suppliers are free to pass on OPEC's price increases to us virtually overnight, we have been linked to a ponderous bureaucratic machinery basing its economic assumptions on data that often became obsolete almost as soon as they were submitted."

TWA was indeed one of the victims. The airline's $27.2 million loss for 1979 helped to drag down the parent Trans World Corp.'s net to $8.6 million from $86.6 million in 1978. Last year's income failed even to cover the preferred stock dividend, so the parent recorded a loss of 42 cents per common share.

THE OLD SYSTEM

But there's no reason to assume that under full regulatory strictures of several years ago the Board would have handled airline costs and earnings any better. In fact, 1974 and '75 oil price jumps sprayed red ink around the industry.

Alfred Kahn, the arch-deregulator, recalls that when he came in as chairman of the CAB in May 1977, there was a continuous flow of requests for fare increases. For one thing, boosts had to be justified on the basis of historic costs. For another, there was a waiting period of at least a month between approval and implementation of a higher fare. "The rates were wrong the day they went into effect," Kahn says of the old system.

Comments L. John Eichner of the consulting firm of Simat, Helliesen & Eichner: "The route moratorium of the 1970s and the rate regulation that we experienced both combined to reduce productivity and to eliminate flexibility of U.S. domestic airlines to such an extent that many of us could not see how the domestic passenger airlines could survive."

Deregulation changed that. Now there is room for management to make a difference, for good or ill. There is room for bankruptcy and forced merger, there is also room for a steady stream of profits and a decent return on investment. And there is room for new names and new faces to break into the ranks of the big trunk carriers.

So far, deregulation has given the airlines limited price flexibility but considerable freedom to choose their markets. Within certain limits, airlines can adopt and abandon routes without much regulatory fuss. For some carriers, this new freedom meant a chance to rationalize route structures that had been frozen by inflexible CAB policies over the years. Delta Air Lines President David C. Garrett calls this conservative "system" in a search for efficiency. For example, Delta served the Chicago-Atlanta route and the Chicago-Nashville route, but until deregulation it had no planes on the Nashville-Atlanta run. Since the ground services were already in place and the planes were already flying, rearranging the schedule to send a couple of aircraft on the Chicago-Nashville route on to Atlanta added service and captured riders at minimum cost.

Delta had prospered under the old regime and ranked among the strongest opponents of change. The company still grumbles about price wars and what financial vice president Robert Oppenlander terms "unlimited, unnecessary competition." But he also concedes that the freedom to drop marginal routes and add new ones with more profit potential "undoubtedly overcame some of the difficulties we experienced from the extraordinary rise in fuel." Compared to most competitors, Delta remains strong—comfortably in the black with earnings of $103.6 million for 1979. Even the most recent quarter was profitable, though down 23% from the like stretch a year earlier.

Another successful use of route-changing freedom was that of US Air, the born-again Allegheny Airlines. E. I. Colodny, president of US Air, has presided over an extension of Allegheny Airlines, E. I. Colodny, president One example: US Air dropped out of the New York-Albany market and put the aircraft into serving Florida routes from Albany.

"Instead of feeding Eastern, we're feeding ourselves," Colodny chuckles.

With a similar strategy, US Air serves Phoenix out of Minneapolis, Cleveland and Pittsburgh, as well as Houston and New Orleans from Pittsburgh. The longer routes are a more profitable use of the line's small jets, according to Colodny. US Air boasts a unique arrangement that has made it easier for the line to move its jets from less lucrative short-hop, regional runs. Under a kind of franchise agreement, US Air is allied with the Allegheny Commuter lines—12 independent air carriers ready to step in with smaller propeller and turbo-prop planes when US Air wants to withdraw jets. The Allegheny Commuter lines, naturally, are scheduled to connect most conveniently to US Air flights, not the competitions.

GROWING FAST

U.S. Air was in the right place at the right time in 1979, pushing operating net profit to a record $33.4 million. (Earnings per share last year failed to hit new highs, due in part to the dilutive effect of a stock issue and in part to extraordinary gains and a tax-loss carryforward that boosted results in '78). The most recent quarter was remarkable: net of $9.1 million. And even the January 1980 loss posted at $2.1 million was less than half the seasonal damage the company is accustomed to incurring.

Nor is US Air alone. Other regional carriers, some long-established in short-hop markets like Piedmont and Frontier, others just breaking out of single-state markets like Southwest of Texas and PSA of California, are bucking the downdraft trend of the trunks. Others are beefing up their financing for expansion, like Air Wisconsin, which plans a stock offering later this year. Announced last week, the stock sale is to finance new aircraft. And there are brand-new airlines, like Midway and Air Florida, which are trying to invent new markets and tap profit potentials that others never saw or could not cash in on under route regulation.

But if the opening of access to new routes has aided many lines, it was almost the undoing of some. When industry people meet to pore over the latest financial returns, they frequently console themselves by noting that at least they are doing better than Braniff.

OVERDOING IT

Braniff jumped into every available market. Between November 1978 and September 1979, Braniff launched service to 18 cities in the U.S. and seven abroad. Route miles jumped 62.4 percent and seat miles went up 25.6 percent. The line added 24 new planes, including five Boeing 747s to swell it fleet to 116 aircraft. And it has contracts to buy 38 more to be delivered through 1982 at a purchase price of more than $800 million. It was a plan for heady growth in the best of times; last year it was a blueprint for disaster.

Braniff's expenses rose 55 percent, nearly double the damage suffered by any other major airline. More than half the rise was for fuel, and the line suffered more than most because it was driven to pay high prices in the spot market for fuel to fly its new routes. Serving so many new cities was also costly; the number of employees mounted from 12,100 to 15,300, which with raises boosted the payroll tab by about 30 percent; the cost of nonflight property leases, primarily new airport facilities, roughly doubled.

Bottom line: a reported loss of $51.4 million in the final quarter and a year's red ink of $44.3 million. It could have been worse: the company cut depreciation expense by more than $4 million by booking an extended use life for some of its aircraft. It converted an employee group medical plan to self insurance, saving an estimated $6.5 million. And it used a Financial Accounting Standards Board interpretation to apply a $27 million investment tax credit against previously deferred taxes, thereby improving the income statement but not cash flow.

OPTIMIST AT THE TOP

Braniff Chairman Harding L. Lawrence blames fuel prices for at least $60 million worth of the company's 1979 troubles. He says Braniff is healthier than it looks. "We are now very well postured for the 1980s, with a very fine international route system and one of the best systems in the country too. In place we have the kind of route system we want. For the next 10 to 20 years we will develop it." He admits that the route expansion was painful but claims to have no regrets. "We have already done it—it's behind us and in place. We absorbed the shock and now we'll be getting the reward. Every indication is that we will return to profitability this year."

Lawrence proudly points out that Braniff has the second youngest air fleet of the major carriers and a simplied, all-Boeing fleet. His competitors, he notes, face heavy replacement costs in the mid-1980s. Now, Lawrence says, he wants a free market for pricing. "If we are operating in a free market as far as route systems are concerned, we now need the companion authority to engage in proper pricing policies."

MORE RED INK

A lot of lines insist they need "proper pricing policies." Joining Braniff in red ink for 1979 were TWA, United and Continental in the fourth quarter, American sank into the red, and results for the year would have been much worse if its $87.4 million earnings hadn't included such non-operating items as a $33 million investment tax credit, an after-tax gain of $25.1 million from insurance on the DC-10 that crashed last year in Chicago, $14 million from the sale of hotel investments and a $6 million gain on the purchase of company bonds selling at a discount. These unusual items total $78 million.

Some of the drain on specific lines last year, to be sure, resulted from the mid-year grounding of all DC-10s after the Chicago crash. United had a lengthy strike, and the half-fare coupon promotion in the fall that it used to come back afterward—and that American imitated—was another unusual drag on margins.

Still, the structural changes in the airline industry in the years just ahead loom as substantial. A bankruptcy is far from impossible. More mergers are a virtual certainty. Morton Erlich, senior vice president for planning at Eastern Air Lines, freely admits that Eastern is looking for a suitable partner. He also predicts that within a few years, there will be no more than seven major national airlines, even accounting for the rise to trunk status of former regionals like US Air. He praises the recent merger of National and Pan American as an "end-to-end" combination in which National's domestic routes and Pan Am's overseas service dovetail neatly.

There are, of course, difficulties to this or any merger, as Republic Airlines has demonstrated since July 1. The offspring of North Central Airlines and Southern Airways, Republic now serves more airports than any other airline—157. It's suffering growing pains working out management of such a far-flung empire.

One line that's made a fortune out of mergers is Texas International, although it hasn't actually merged with anyone. It's not only an aggressively expanding, price-cutting line, but it also cleared an estimated $46.5 million on its investment in National by losing a bidding war to Pan American, and recently liquidated its holdings in TWA at an undisclosed profit.

PRICES AREN'T SIMPLE

As for pricing, the issue is not so simple as raising fares to cover costs. Elizabeth Bailey, a CAB commissioner, points out that about half of competitive markets have fares that are less than the ceiling now allowed. "We've done a lot," she says. "We gave about 30% fare increases in 1979, but we're still seeing many discount tickets being sold in many markets, the price constraint is not by our limit, but by competition."

Bailey also believes that some carriers have yet to catch on to some of the tricks of effective competition. For example, two airlines she won't name rejected a suggestion to try peak load pricing—that is, offering discounts only for travel at slack periods and charging higher fares at times of high demand. "One of them said they couldn't do that because they'd have to reprogram their computer," Bailey recalls without a trace of sympathy.

The search for efficiency is critical. Delta and Northwest, long viewed as efficient operators—they are also less burdened by debt—turned in relatively respectable performances in '79. Delta's maintenance cost for the widely used Boeing 727-200: $175.32 per maintenance block hour on its fleet, 13% less than the industry average of $201.74. Comparable servicing cost for Eastern Air Lines is $216.99. In the unlikely event that Eastern could become as efficient in aircraft maintenance as Delta, it would be worth as much as $20 million to the former's pre-tax margin—substantial for a carrier that all told cleared $57 million last year.

The same thought has clearly occurred to Col. Frank Borman and the rest of Eastern's management. Observes Morton Erlich: "Our salvation has got to be in productivity improvement, getting more out of our machines and equipment. Unquestionably one of the most valuable contributions of deregulation is the ability to improve productivity."

George Eads, a member of the president's Council of Economic Advisers and an advocate of airline deregulation for more than a decade, has been watching one of the widely used indicators of productivity in the air: passenger load factors, a measure of how many seats are filled.

"In 1973, the average load factor on the trunk airlines was 51.8%," he notes. "In 1977, it was 55.9%, and by the third quarter of 1979 it hit 65.1%." Eads adds that the averages are deceiving. On the most competitive routes prior to deregulation, load factors were much lower than the averages. Price competition then was almost impossible, so airlines could only compete by adding more flights to offer more convenient departure times. Deregulation freed the airlines to use price cuts to fill all those empty seats. Moreover, the airlines shoe-horned more seats into each plane and flew more hours per aircraft.

The gains in productivity are striking testimony to the benefits of deregulation. Once the industry passes through its current stretch of heavy weather, other benefits of the new freedom will emerge as well—for those companies with the ability, acumen and imagination to seize them. As Thomas G. Cody, a Pan American vice president, neatly sums it up: "Our results will be determined not by a regulatory agency but by the rules the grown-ups play by."

[From the New York Times, Mar. 28, 1980]

AIRLINES FLYING SOLO

In 1978, Bakersfield, Calif., was served by four daily flights to Los Angeles, three to San Francisco and one to Las Vegas. After the Airline Deregulation Act gave the airlines substantial freedom to fly as they pleased, service dropped off sharply. And critics of deregulation said Bakersfield's fate proved that the benevolent hand of Government was a better airline regulator than the invisible hand of competition.

Today, Bakersfield has 12 daily flights to Los Angeles and eight to San Francisco, all

big, pressurized aircraft. Travelers also have a choice of three flights to Las Vegas on smaller planes and new services to Oakland and Sacramento. While not every small and medium-sized airport has come out a winner, Bakersfield's experience is hardly unusual. A little more than a year after deregulation, the evidence is clear: freer competition means better and cheaper air travel.

The airlines' first reaction to route flexibility was to pull their big jets off the puddle hops and put them to use where the profits are. In fact, in some 50 instances the Civil Aeronautics Board has had to block the loss of bare-bones "essential" service. That should not, in retrospect, have been surprising; between 1968 and 1978, despite regulation, the airlines had managed to extricate themselves from 129 airports. But the framers of deregulation worried that the heavily publicized difficulties experienced by small cities would overshadow the benefits gained from deregulation.

The fears proved premature. Delivery of new aircraft and the expansion of commuter airlines using smaller planes have actually increased the frequency of flights along formerly uneconomic routes. Take the case of Providence, which is sandwiched between the large airports of Hartford-Springfield and Boston. Like Bakersfield, Providence initially lost flights; it has since rebounded with expanded service from major carriers as well as commuter lines. To be sure, the comfortable DC-9's and 727's are now rarely seen in some places. But the growth in all scheduled flights from small airports has actually paced the growth of air traffic since deregulation.

The most important aspect of deregulation, moreover, is not that it turned out to be fairly painless for passengers. The freedom to drop routes, enter new markets and entice new travelers with promotional fares has greatly increased the airlines' productivity. The average number of hours each aircraft spends in the air has risen sharply since deregulation, as has the percentage of seats filled per flight. As a result, ticket prices rose only 16 percent in 1979, while fuel costs doubled and overall industry costs rose by 29 percent.

With the economy poised on the edge of recession, and more fuel-price increases inevitable, the immediate future of the airlines is clouded. Some carriers will be badly hurt, and fares will climb. But deregulation will not be the cause of the troubles ahead. Indeed, if the experience of the past year is any indication, deregulation may prove to be the airlines' salvation.

[From the Wall Street Journal, Mar. 26, 1980]

IS AIRLINE DEREGULATION WORKING?

(By James C. Miller III)

The success or failure of airline deregulation has become an issue in the current fight over trucking deregulation. The trucking industry points to airline reform as proof that deregulating truckers would be a disaster. Reformers claim just the opposite.

President Carter signed the Airline Deregulation Act in October 1978, thus bolstering and affirming reforms that the Civil Aeronautics Board had begun a year or two earlier. Although the process won't be complete until the CAB goes out of existence in 1984, enough evidence has accumulated to enable a preliminary judgment as to whether airline deregulation has been a success or a failure.

Perhaps the best way to judge the issue is to review the predictions of its major supporters and opponents, and then compare these claims with what actually happened. The evidence so far indicates that airline deregulation has been good for both the industry and its users.

The principal proponents of airline deregulation were the Ford and Carter administrations, the CAB itself, several influential members of Congress (most notably Senators Cannon and Kennedy) and economists in universities and public policy institutes. They argued that deregulation would mean lower fares, more traffic, and reasonable earnings.

ARGUMENT AGAINST DEREGULATION

The principal opponents of deregulation were the major airlines (at least initially) and organized labor. They argued that deregulation would mean substantial losses of service to small communities, unemployment or disruption of airline labor, increased need for subsidies, higher fares (perhaps after a short round of cut-throat competition), plummeting profitability, greater industry concentration, a breakdown in the airline network and perhaps compromises in aircraft safety.

What's the evidence?

Fares: Between 1970 and 1976, the domestic truck carriers' fare per mile rose by 36% as against a 47% rise in the Consumer Price Index. In 1977, the average fare rose by 5.8%, compared with a CPI rise of 6.5%. In 1978, the average fare actually fell 1.9% in face of a CPI rise of 7.7%. During 1979, however, due largely to a doubling of fuel prices, the average fare rose again—by 5.3% as opposed to a CPI increase of 11.3%. But adjusting for the fuel price increase puts the nominal 1979 fare below that of 1978.

Productivity gains: According to CAB official Robert Frank, inflation-adjusted unit costs have fallen a whopping 32 percent because of higher load factors, installation of more seats on aircraft and greater utilization of equipment. During 1977, trunk carrier load factors averaged 55.9 percent, but rose to 63.2 percent in 1979. Between fiscal year 1977 and fiscal year 1979, the airlines increased seating some 5.3 percent on the typical aircraft and the number of hours flown by over 12 percent. These efficiency gains are rivaled only by the 25 percent to 30 percent productivity gains brought on by the introduction of jet aircraft during the late 1950s and early 1960s.

Traffic: Over the period 1970 to 1976, trunk-carrier revenue passenger miles increased at an annual rate of 5.4 percent. But traffic increased 7.5 percent in 1977, to 16.2 percent in 1978 and 10.1 percent in 1979. Of course, the data also reflect recovery from the recession of 1974–75, the recent slowdown in economic activity, and the massive United strike and DC–10 grounding that occurred during 1979.

Profits: Trunk airline profits (defined by the CAB as net income plus interest on long-term debt) averaged $349 million per year between 1970 and 1976, or 5.4 percent return on investment. For 1977, 1978 and 1979, profits were $634 million, $1,102 million and $564 million respectively, or returns of 9.1 percent, 12.8 percent and 5.8 percent. The 1979 figure, of course, reflects the soaring price of fuel—a situation that makes the outlook for 1980 even more pessimistic. Despite this, Aviation Daily's index of airline stock prices now stands at 53 as compared to 31 at the beginning of 1975, when deregulation received its initial impetus.

Service to small communities: Since 1976, the number of trunk-carrier departures is up 4.0 percent, and the number of available seat-miles is up 21.4 percent. But not all cities have benefitted equally. Service by the major airlines has increased more at the large, hub airports and less at the smaller airports. Service among hubs has also increased more than between hubs and non-hubs, which has increased more than service among non-hubs. In many instances the major airlines have left small towns to the commuter airlines, continuing a pattern in place before deregulation. In most cases, however, this has meant more frequent service and substantial increases in traffic.

Airline labor: Since 1976, employment in the trunk airline industry has increased approximately 14.1 percent. To date none of the labor protection provisions requiring federal subsidy incorporated in the deregulation act have been exercised, simply because the adverse impact on airline labor has been insignificant.

Subsidy: The board's program of subsidy to local service carriers has continued under deregulation at virtually the same level of funding—$72.5 million for fiscal year 1976 versus $69.6 million for fiscal year 1980. However, to provide assurance to small communities (which were fearful that deregulation would mean a curtailment of service), the deregualtion act contained an additional program guaranteeing that all points would continue receiving scheduled service for a period of 10 years. This essential service program will cost an estimated $7 million for fiscal year 1980, and the amount is expected to rise over the next few years. But even including this new program, the inflation-adjusted subsidy bill is now less than before.

Industry concentration: In 1976, the trunk carriers' market share was 90.5 percent and the regional carriers accounted for another 8.3 percent. For 1979, the figures were 89.9 percent and 9.9 percent respectively. Only one merger of any consequence has been consummated—Pan Am and National—and the CAB conditioned its approval on Pan Am's not absorbing National's only major competitive route, Miami-London. Moreover, several new carriers have appeared, and intrastate carriers now compete in interstate markets. Midway now serves out of Chicago, Southwest serves New Orleans from its Texas base, and Pacific Southwest has finally crossed the California border, serving Reno, Las Vegas, Phoenix, and Salt Lake City.

The airline network: Little, if any, deterioration in the network of service has been observed. The carriers have not only continued to cooperate in transferring passengers, but because of deregulation they have been able to provide direct service to many additional points. From December 1976 to December 1979, the number of pages in the "Official Airline Guide" increased by 25 percent, a crude indication of the increase in system size and complexity.

Safety: Travel by air is incredibly safe compared to performance of yesteryear and travel by the family automobile. Fatality rates for the major airlines were 0.38 per billion passenger miles in 1977, 0.07 in 1978, and 11.4 in 1979. The 1979 increase, of course, reflects the tragic DC–10 crash in Chicago. But almost no one blames deregulation, since the maintenance program held responsible for the accident was in use well before the act was passed.

SUBSTANTIAL EFFICIENCY GAINS

Also of relevance to the question of air passenger deregulation is what happened when air cargo was deregulated in 1977. As Lucile Keyes concludes in a study just published by the American Enterprise Institute, air cargo reform has also led to substantial efficiency gains. Since regulation had held air cargo rates too low, they were bound to rise. But because of efficiency gains they rose by only one-half what the CAB itself had concluded was justified and was prepared to allow. Moreover, with a more rational rate structure, service mushroomed and the rate of traffic growth more than doubled.

No institutional change of the magnitude of airline deregulation is going to please everyone. Some have gained more than others, and some, at least for a time may actually be worse off. But what is striking about airline deregulation is how limited and localized the adverse effects have been. And no program of publicizing horror stories is going to change that basic fact.

The evidence thus far is overwhelmingly on the side of the proponents of deregulation. By 1984, when the CAB is scheduled for ex-

tinction, reasoned judgment may be on the other side. But that would happen only if in the meantime the industry experienced failures of disastrous proportions.

ENERGY DEVELOPMENT IN THE THIRD WORLD

Mr. PERCY. Mr. President, I call the attention of my colleagues to an article by James W. Howe from the Overseas Development Council. Mr. Howe has spent a number of years researching and writing on the energy issue with a particular focus on the Third World. His analyses are provocative and even when we do not agree on every detail, I always find his views interesting and constructive. Mr. President, I ask unanimous consent that the article from the February 21 issue of the Christian Science Monitor be printed in the RECORD.

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

TWO OMISSIONS IN CARTER'S ENERGY STRATEGY

(By James W. Howe)

The President is right to seek reduced dependence on foreign oil. We must face the fact that we cannot achieve security through the quixotic goal of import independence. Even if the United States were able to achieve that target by the end of the century, it is virtually certain that Europe and Japan could not do so; and if they are threatened we, too, are not secure.

To reduce our depedence, Mr. Carter calls for three steps. We must conserve energy. We must substitute more plentiful energy sources for oil. And we must produce more oil and gas. For conservation and substitution, proper pricing is critical. As long as the price of oil and natural gas is cheaper than the cost of conserving or replacing, people will not respond—no matter how much they are exhorted to do so.

Mr. Carter's strategy scores very well as far as it goes, but neglects to follow through by adding two further, critically important courses of action. The first is to work with other countries to produce more oil and gas, conserve energy, and substitute more plentiful energy sources for oil and gas.

Two examples suggest the potential of this broader approach to Mr. Carter's three steps. Although experts agree there is likely to be a great deal of oil in the non-OPEC countries of Asia, Africa, and Latin America, for every one well that is drilled in these countries, about 100 wells are drilled in the US on geologically similar terrain of equal size.

Similarly, important opportunities to conserve and replace oil with other energy sources are being neglected in the developing countries for want of skills and capital. Yet it is clearer each day that a barrel of oil found, conserved, or replaced with more abundant energy anywhere contributes to our security.

This insight, while missing from Mr. Carter's State of the Union message, is a natural companion to his perception of the interdependence of nations: "The state of our union depends on the state of the world." Mr. Carter should ask the Congress to enact an International Energy Security Act that would provide skills, technology, capital, and incentives to the private sector to help developing nations to find oil and gas, install technologies that replace the use of oil and gas with other more plentiful sources, and conserve energy. Although one of the chief results of this measure would be to help the poor countries develop, this would not be development aid, since its purpose would be to enhance our own energy security.

Perhaps even more important for the immediate future is the second course of action omitted from the President's message: working to improve relations between the OPEC countries and the oil-importing nations.

As Mr. Carter stated, our energy policy must be founded on "realistic pricing" based on the true value of oil. He did not, however, add—as he should have—that realistic prices also must provide the *market incentive* without which oil conservation and substitution will not take place. Politically unpalatable as it may be, we have a stake in ensuring a *rising* real price of oil in order to supply that market incentive.

Ironically, our long-term objectives and those of OPEC may not be in conflict. Mr. Carter pointed to the OPEC price rises as the main cause of our inflation. But it was the suddenness of the price rises, not their size, that caused the damage. As of January 1980, the *real* price of oil (current purchasing power after inflation) was 20 to 30 percent above the 1974 price. Many economists believe that, had the price rise been gradual and predictable, it would not have had such inflationary effects.

Oil exporters need the price increase because most of them will exhaust their oil in a few decades and need maximum oil revenues to build economies that can withstand that shock. Oil importers need it also—in order to achieve their longer-run goal of achieving a smooth transition from oil to whatever energy sources will take its place. Both sides need to assure that oil price increases will be steady and predictable. Each is hurt if price explosions trigger inflation and recession.

Thus a solid *economic* basis for negotiating some rules of the game on oil volume and price has existed for some time. The Soviet threat to the Gulf region now adds a compelling *security* incentive to cooperation—an incentive as strong for the Arab countries as it is for oil importers. Mr. Carter's energy strategy will be complete only if the United States also proceeds to cooperate with the nations of Asia, Africa, and Latin America to produce, save, and replace oil, and if it strives to negotiate some understanding between oil exporters and oil importers.

INTERNATIONAL VOLUNTEER HELP FOR REFUGEES

Mr. PERCY. Mr. President, the problem of refugees is an international problem which is growing all the time. Mary King, Deputy Director of ACTION, recently authored an article entitled "People, Not Money, Can Save Lives: New Help for Refugees," which appeared in the February 24 edition of the London Sunday Times.

Ms. King states the problem bluntly:

There are 10 million refugees in the world, and in the last three years the number has grown by more than 2,000 a day.

At the same time, she goes on to point out, nationalism and other factors are often making the acceptance of help from other countries difficult in the very countries where the help is desperately needed.

This is why Ms. King's report that a new international voluntary approach which is being used in Asia holds great promise. From my own efforts to get the Peace Corps involved in international efforts to help with the tragedy of the Cambodian refugees, I know how very important the contribution of these volunteers can be. International volunteers can provide experienced, effective, and nonpolitical help.

Mr. President, I commend Mary King's article to all of my colleagues and ask unanimous consent that it be printed in the RECORD.

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

PEOPLE, NOT MONEY, CAN SAVE LIVES—NEW HELP FOR REFUGEES

(By Mary King)

There are 10 million refugees in the world, and in the last three years the number has grown by more than 2,000 a day. It is estimated by the Brandt Commission that in this century, 250 million people have fled their countries. Volunteer organizations have often met needs more swiftly and flexibly than governments. But they need a new approach, if they are to continue to be effective, and trusted by "host" governments.

The problem of shifting populations which cross geographic and political boundaries is growing in international scope. The United Nations High Commissioner for Refugees (UNICR) has already extended its involvement in 60 countries—mostly in Africa, Asia, Eastern Europe, and Latin America. There are reasons to believe that this is only the beginning. More mass migrations in the future are inevitable—regardless of whether they result from politics or natural disasters like earthquakes, famine, and floods. The world must be better prepared for these crises. In particular, we must prepare for a future where refugees are increasingly used as a blatant political weapon to destabilize asylum countries and create regional and international pressures.

Sir Alec Dickson, the man whom many consider the founding father of international volunteering—a concept in which industrialised nations provide volunteer workers to Third World nations rather than solely material goods or relief supplies—has asserted that Third World nationalism may render overseas volunteer programmes obsolete. Dickson maintains that Third World nations will rely more and more on their own mechanisms including local volunteer programmes involving their own people.

But it is unrealistic to apply this perspective to the massive international problem of refugees. Simply speaking, local voluntary efforts of these developing nations are not yet equipped nor politically able to address this humanitarian emergency. Rising nationalism in the Third World has often made the intervention of individual industrialised countries suspect (if not completely unacceptable), even during times of natural emergencies, as well as premeditated disasters. Fundamental new approaches are needed.

In Asia, for the first time, teams of international volunteers are being assigned from programmes like the Peace Corps and the British Overseas Volunteers Service, under UNHCR auspices to provide critically needed help to hundreds of thousands of Indochinese refugees. This new unprecedented venture, administered by a neutral party, must be made to succeed. It represents not only a new chapter in the proud legacy of international volunteer services, but is a genuinely non-political and humanitarian force of committee men and women from many nations working side-by-side to help relieve the plight of refugees.

These volunteers, from both industrialised and underdeveloped nations, with the imprimatur of the United Nations, represent their own personal commitment and not the flag of their sponsoring countries. As partners to international organisations and private voluntary organisations, volunteers can uniquely provide the care, attention and understanding desperately needed by refugees who are frightened or despondent.

We are looking to this small beginning in Asian refugee camps and transit centres to

grow into a strong voluntary force which supports UNHCR's efforts in all corners of the globe where refugees are visible symptoms of a changing and too often hostile world.

This should be viewed as a means for industrialised nations to go beyond their conventional role of merely donating money for problems such as refugees.

Unless UNHCR and the national volunteer organisations move quickly to build on the experiences gained in Asia and provide a flexible framework which can deliberately respond to this international dilemma of refugees, millions of lives could be lost. If the volunteers avoid this evolution, it may be viewed as a Trojan horse, a tool for the political and economic gain of shrewd and self-serving "donors."

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes.

There being no objection, the Senate, at 1:58 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

EXECUTIVE SESSION

PANAMA CANAL COMMISSION

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Senate will go into executive session, and the clerk will report the nominations.

The assistant legislative clerk read the nominations of Michael Blumenfeld, Assistant Secretary of the Army, of the District of Columbia, to be a member of the Board of the Panama Canal Commission; John Alden Bushnell, of Connecticut, to be a member of the Board of the Panama Canal Commission; John W. Clark, of Louisiana, to be a member of the Board of the Panama Canal Commission; Clifford Bradley O'Hara, of Connecticut, to be a member of the Board of the Panama Canal Commission; and William Sidell, of California, to be a member of the Board of the Panama Canal Commission.

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 be charged equally against both sides.

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

The asssistant 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.

IMPLEMENTATION OF THE INTERNATIONAL SUGAR AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, as in legislative session, the Senate proceed for not to exceed 1 minute with Calendar Order 686.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—Calendar 686 is cleared on our calendar, and we have no objection to its consideration and passage.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6029) providing for the implementation of the International Sugar Agreement, 1977, and for other purposes, reported without amendment.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Idaho (Mr. CHURCH).

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

STATEMENT BY MR. CHURCH

I have had a long standing interest in the International Sugar Agreement. The ISA, which has been provisionally in effect since January 1, 1978, and which the Senate gave its advice and consent to ratification overwhelmingly by a vote of 80 to 11 last November, will finally become fully operational with today's vote.

As I have said before, I think that U.S. participation in the ISA is good economic policy and good foreign policy. American producers and consumers of sugar will benefit from any stability of prices and supplies of sugar which the ISA can offer. Many developing countries which rely upon sugar revenues to finance economic development will be able to better fashion their development plans in light of a more stable stream of income.

When the ISA was negotiated over four years ago, it was decided that the ISA, using a combination of export quotas and reserve stocks would attempt to stabilize world sugar prices within a range of 11 to 21 cents per pound. Exporting nations were required to accumulate reserve stocks at their own expense in periods of excess supplies and will receive financial assistance from the ISA to defray the cost of holding such stocks as soon as the ISA becomes fully operational. These stocks were then available for sale on the world market when the price of sugar climbed above 19 cents per pound.

In 1977, when the 11 to 21 cent price band was agreed to, the price of sugar was 8 cents per pound. The Articles of Agreement specifically provide for a review and adjustment of the price band, annually, if necessary.

To date, ISA members have not sought to change this band because market conditions dictated otherwise. The agreement specifies that in determining whether a price band revision is justified, the International Sugar Organization (ISO) should take into consideration such factors as trends in market price, production and stock trends. Clearly, recent upward trends in sugar prices demand a careful review by the ISO if the ISA is to continue functioning in a useful manner.

I am concerned that the ISA be allowed to function in a manner consistent with the Articles of Agreement of the ISA so that both American sugar producers as well as American consumers receive the full benefit of a well functioning ISA.

While the United States may be a consuming nation for purposes of this agreement, it is also the third largest producer of sugar. U.S. policymakers must keep this fact in mind when formulating the U.S. position for the ISO meetings which are currently underway.

I have written to the two principal agencies responsible for U.S. commodity policy—the Department of State and the Office of the U.S. Trade Representative.

I submit for the RECORD copies of my letters along with the reply received from Assistant Secretary of State Deane Hinton.

The material follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., February 19, 1980.

Hon. DEANE HINTON,
Assistant Secretary of State for the Bureau of Economic and Business Affairs, Department of State, Washington, D.C.

DEAR SECRETARY HINTON: As you know, the International Sugar Agreement is now the cornerstone of the Administration's sugar policy. The ISA Treaty has been ratified by the Senate and the necessary implementing legislation to complete U.S. participation will likely be approved soon by the Congress.

It is widely understood that this Agreement carries significant impact on the United States because we are the world's largest importer of sugar. This often leads to the U.S. being classified and thought of as a sugar consuming nation, not a producing nation. However, the U.S. is the world's third largest producer of sugar and it is with this fact in mind that I make the following suggestion.

I would urge that those in the State Department who will negotiate with and otherwise represent this country in the International Sugar Organization, consult with Mr. Dave Carter, President of the United States Beet Sugar Association and Mr. Richard Blake, Executive Vice President of the American Sugarbeet Growers Association. As representatives of the U.S. sugarbeet growers and beet sugar processors, their input into the development of the U.S. position relative to the operation of the ISA is both proper and important. Consultation with these representatives will assure that the views of the U.S. domestic sugarbeet producers are considered in the formulation of U.S. policy.

You have my appreciation in advance for your consideration of this request.

With best wishes,

Sincerely,

FRANK CHURCH.

MARCH 18, 1980.

Hon. REUBIN O'D. ASKEW,
Office of the U.S. Trade Representative, Washington, D.C.

DEAR MR. AMBASSADOR: As you know, the International Sugar Agreement is now the cornerstone of the Administration's sugar policy. The ISA Treaty has been ratified by the Senate and the necessary implementing legislation to complete U.S. participation has recently passed the House of Representatives and will soon be considered on the Senate floor.

It is widely understood that this Agreement carries significant impact on the United States because we are the world's largest importer of sugar. This often leads to the U.S. being classified and thought of as a sugar consuming nation, not a producing nation. However, the U.S. is the world's third largest producer of sugar and it is vital that this be taken into account when U.S. sugar policy is being formulated.

Since the Office of the United States Special Trade Representative is now responsible for commodity negotiations and policy coordination, I would urge you to take into careful consideration the interests of U.S. sugar beet and sugar cane producers and processors when fashioning U.S. policy for International Sugar Organization meetings. With ISA implementation legislation shortly to come before the Senate for consideration, I think it important that the Administration reaffirm its position that producer interests, as well as consumer interests will be duly noted and integrated into U.S. sugar policy.

This will ensure the speedy consideration and passage of ISA implementing legislation.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., March 3, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of February 19 concerning the International Sugar Agreement. Your point is well taken that the United States needs to act both as a major sugar producing as well as a consuming country. We intend to take positions within the Sugar Organization in full recognition of both the producer and consumer points of view.

With regard to your specific suggestion that we consult with Mr. Dave Carter, President of the United States Sugar Beet Association, and Mr. Richard Blake, Executive Vice President of the American Sugar Beet Growers Association, I think it is an excellent one. We have worked closely with these gentlemen in the past, and we will make an extra effort to seek their counsel on ISA matters in the future.

We will also look forward to working with your staff in gaining Senate approval for the ISA implementing legislation, when the House completes action on the bill.

Sincerely,

DEANE R. HINTON,
Assistant Secretary for Economic and Business Affairs.

● Mr. INOUYE. Mr. President, for many years it has been our policy to maintain a domestic sugar industry capable of producing a significant portion of our sugar requirements. That policy avoids primary dependence on foreign suppliers.

Approval of H.R. 6029, a bill which would permit the President to implement fully U.S. obligations under the International Sugar Agreement, is a necessary component for the maintenance of a healthy domestic sugar industry.

As in some other commodity systems, there has been a strong degree of cyclicality in world sugar production. The reasons range from unfavorable weather conditions, to supply-demand problems, to international political traumas. Past International Sugar Agreements have attempted to regulate this cyclicality. However, in the aftermath of the 1974 sugar price explosions and the subsequent 1975 precipitous price declines, the search for a regulatory mechanism for this commodity system has grown all the more intense.

Slightly more than 28 percent of world sugar production, approximately 22 million tons, moves in international trade. One of the institutional peculiarities of the international sugar market has been the compartmentalization of a large part of international trade into preferential marketing arrangements. Sixty percent of internationally traded sugar, approximately 13 million tons, is traded under preferential agreements, leaving 40 percent of internationally traded sugar, approximately 9 million tons, trading on the free market.

The free market, which is comprised of all international transactions outside the preferential arrangements, is a residual market, serving both as a marginal outlet for protected beet sugar produced in excess of domestic requirements in temperate countries, and as an important market for cane sugar exporters with limited access to preferential markets. Because of preferential arrangements, and other reasons, only a part of the volume ascribed to the free world market is traded at the prices quoted on that market. Its narrowness and the absence of an adequate buffer-stock mechanism to cushion random fluctuations in output make the free world market price an oversensitive barometer of the short-term supply situation.

The limited amount of sugar available on the residual free market has reduced the effectiveness of market mechanisms in bringing about necessary adjustments of production in response to changes in demand. Also, changes in supply impinging on a market where demand is relatively inelastic produces wide price fluctuations. The ISA will go a long way toward improving the world market infrastructure for sugar.

The International Sugar Agreement attempts to meet the requirements of a sugar commodity system that will grow increasingly violent in its cyclicality unless we act to fully implement that agreement.

The International Sugar Agreement treaty became effective provisionally between approximately 70 sugar producing and consuming countries on January 1, 1979. The United States was not only a signator of the treaty but was also one of its principal proponents. On November 30, 1979, the Senate gave its advice and consent to the treaty by an overwhelming margin of 80 to 11.

However, the ISA is not self-executing. New authority in U.S. law is required in order for the United States to be able to carry out its obligations under the ISA. Fortunately, the United States had been granted by the other signators of the treaty a waiver of the obligations until April 1, 1980.

The overall achievements of International Sugar Agreement must be judged very largely on the basis of the price effects resulting from its various mechanisms. Thus far, it appears the price adjustment mechanisms of the ISA are working. In the fall of 1979, world sugar prices began to increase. In January 1980 the export quotas established under the ISA were increased and on January 11, 1980, restrictions on the export of sugar were suspended entirely. Under the provisions of the ISA, the export of sugar by member countries is now unrestricted and buffer stocks have also been released. These actions have brought the world price of sugar back within the upper limits of the price established under the ISA. As intended, the ISA is reducing the world price cyclicality of sugar. This goal is favorable to both consumers and producers of sugar.

Hawaii produces approximately 1,100,000 tons of sugar. This comprises one-fifth of all sugar produced in the United States, or about 10 percent of the sugar consumed in the United States. The United States is the largest consumer of sugar in the free world market. My State's economic destiny is reliant on the success or failure of the International Sugar Agreement.

Without approval of the implementing legislation of the ISA, there is little chance that the ISA can succeed in bringing price stability to the world sugar market at a reasonable market price for sugar.

Without approval of H.R. 6029, prices of sugar could likely become increasingly volatile; subject to rapid increases as high or higher than occurred in the period 1974–75 and subsequent glut and disastrously low prices.

At the present time, world sugar prices have strengthened, but without passage of H.R. 6029 and the administration's continued commitment to support sugar at a reasonable level, this may prove a short-term phenomenon. To insure greater protection of the U.S. consumer and our domestic sugar producer, I believe that it is extremely important that the Senate approve the necessary implementing legislation for the ISA. I urge support of H.R. 6029 and continued support by the administration of our country's domestic sugar industry.●

Mr. DURENBERGER. Mr. President, I strongly support H.R. 6029, a bill which implements the International Sugar Agreement (ISA) of 1977.

The purpose of the ISA is to stabilize the price of sugar in a 10-cents range set by the governing bodies under the agreement. The present range is from 11 to 21 cents per pound and I understand an effort is being made to increase these limits by 1 cent. These prices would be supported under the agreement by export quotas in exporting countries when prices are in the lower part of the range and, in some cases, by import controls in consuming countries on imports from nonmembers of the agreement. In addition, there is a system for exporting members to accumulate stocks, with the cost of holding such stocks to be partially financed by a fee on each pound of sugar traded under the agreement.

Mr. President, Minnesota is the leading producer of sugar beets. These 10 States account for an estimated 89 percent of the 1.5 million acres of sugar beets produced. Not only are sugar beets extremely vital to the economy of Minnesota, the industry is of great importance to the Nation.

It involves in excess of 18,000 farmers and farmowners, more than 27,000 processor employees, and tens of thousands of farmworkers. If all the sugar beet processors were required to close plants, millions of dollars would be taken from the tax rolls, and many thousand stockholder investors in all of the sugar processing companies would suffer untold losses. It would be unthinkable that we could even consider permitting this long time viable industry to become bankrupt and the many citizens affected thereby to be damaged and injured in such a course of action that would result in the collapse of the industry. However, we have been headed in this direction for several years. I hope we have reversed that trend.

Mr. President, I would like to briefly

outline the problems of the industry. On June 6, 1974, at a time when sugar prices were approaching record high levels, the House of Representatives rejected amendments to extend the Sugar Act of 1948 as proposed by the House Agriculture Committee. Thus, most of the provisions of the 1948 legislation expired on December 31, 1974, ending 40 years of U.S. sugar policy based on the Sugar Act and its predecessors. We have not fully recovered from this action.

After the record high levels of prices in 1974 and early 1975 and the demise of the Sugar Act, prices began a steep, dramatic drop. From a high of nearly 60 cents per pound raw value, New York spot price, in November 1974, prices had fallen to the range of 7 to 9 cents per pound raw value, New York spot price, in the latter half of 1977. These low prices in the face of high production costs and declining sales, produced severe economic hardship for many domestic sugar producers. In response to the problems of sugar producers, the Senate Finance Committee in September 1976, directed the International Trade Commission to investigate whether increased imports of sugar were injuring or threatening to injure the domestic sugar industry.

On March 17, 1977, the U.S. International Trade Commission reported to the President, after a 6-month investigation under the import relief provision of the Trade Act of 1974 that sugar was being imported in such increased quantities as to be a substantial cause of a threat of serious injury to the domestic industry producing like or directly competitive products.

On May 4, 1977, the President announced his decision in response to the Commission's investigation. He determined that import relief under the Trade Act was not in the national economic interest. Instead, the President recommended a program under existing agricultural legislation to provide income support for domestic sugar producers which would make up the difference between U.S. market prices for sugar and a price objective of 13.5 cents per pound, with payments up to 2 cents per pound.

Since a majority of the Commission had found affirmatively under the Trade Act of 1974, and the President had recommended no import relief action pursuant to the Trade Act, it was up to Congress to act.

House Concurrent Resolution 231 to disapprove the President's decision not to provide import relief was introduced on May 26, 1977. On July 27, 1977, the Subcommittee on Trade of the Committee on Ways and Means of the House of Representatives held hearings on the resolution. However, the resolution was never called to the floor of the House for action.

In the Senate, Senate Concurrent Resolution 38 to disapprove the President's decision not to provide import relief was introduced on July 19, 1977. The resolution was never called to the floor.

While the above domestic activity was occurring, internationally the administration was negotiating an International Sugar Agreement. The ISA was designed to bring some stability, through export quotas and buffer stock requirements, to world sugar trade which is currently characterized by cyclical periods of very low and very high prices.

A new agreement was negotiated in 1977 to which the United States is signatory. Final agreement was reached on October 7, 1977. The agreement, to run 5 years, has gone into effect provisionally in 1978. This agreement provides for export quotas as in the past, and in addition includes provision for buffer stocks to help achieve price objectives.

The agreement seeks to stabilize the world market price of sugar between 11 and 21 cents per pound. Price stabilization is to be achieved by accumulation of buffer stocks and export quotas when prices are low, and release of buffer stocks when prices rise above 19 cents per pound.

The agreement will come into force with quotas in effect. Quotas will be set initially at 85 percent of a reference tonnage, which is based approximately on each country's recent export performance to the free market. If the price fails to reach 11 cents on a world basis an additional quota reduction totalling 2.5 percent will be made. When the market price moves 13, 14, and 14.5 cents per pound the global quota will be reduced 5 percent at each level. Below 11.5 cents per pound, the quota will be at 85 percent of the original level. If the market price remains below 11 cents per pound for 75 consecutive market days, a further 2.5-percent cut in the global quota may be authorized which would be applied only to countries whose exports to the world market are less than 60 percent of total production.

The agreement further provides for a buffer stock of 2.5 million metric tons to be built up during the first 3 years of the agreement when quotas are in effect in the lower part of the price range. Each exporting country will set aside a quantity for the buffer stock pro rata to its individual basic export tonnage. During the first year of the agreement, 40 percent of the total obligation is to be established.

When the price is between 15 and 19 cents, the free market will operate. Quotas will not be in effect and the buffer stock will not be added to nor drawn down.

To defend the ceiling price, the agreement uses a system of releasing the nationally held reserve stocks. When the price reaches 19 cents per pound, one-third of the stocks will be released and shipped to the free market. At 20 cents a further third will be released. If the price should continue to rise, the final third may be released at the ceiling price of 21 cents per pound.

Mr. President, I believe that the objectives of the ISA are worthwhile and, if fully carried out, can hopefully lead to the eventual stabilization of world sugar prices over the next few years.

However, price levels in the International Sugar Agreement are based on production, in tropical or subtropical countries, with labor rates and conditions that are in no way comparable to our own. Also involved in the disparity of production costs is the fact that our crop is grown and processed under American standards of living and environment and other restrictions which are costly.

Unless prices are stabilized to give a fair return, sugar beet factories will close in Minnesota. There will be a reduction in factory employment and the many service industries associated with the growing and processing of sugar beets.

We in Minnesota have heard the recommendation that sugar beet growers move into an alternative crop. My answer is what crop?

Sugar production is a desirable crop for us in our Minnesota climate where there are few choices. Barley and wheat stocks are often in surplus. Corn and soybeans provide only mediocre yields in this area.

If it is impractical for our farmers to find alternative crops, who will purchase the sugar mills, and other buildings and equipment that are estimated to be worth $2 billion?

Mr. President, we cannot return to a system which allows foreign countries to produce and market sugar below cost of production. If the ISA is unworkable we must be prepared to maintain a viable domestic sugar industry. The dumping of imported sugar on our domestic market will be prohibited by affirmative legislative action.

Mr. President, beyond providing a basic commodity vital to our national interest, the beet sugar industry is a generator of wealth in rural America. The hundreds of millions of dollars that accrue annually in the form of payments to growers for crop purchases, to labor for wages, and to stockholders in the form of dividends must be maintained. As a member of the Senate Finance Committee I will be prepared to do what is required to protect the domestic sugar beet industry in the event the ISA fails to provide worldwide stability.

The bill was ordered to a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

PANAMA CANAL COMMISSION

The Senate continued with its consideration of the nominations.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield myself so much time as I might need on the nominations.

Mr. President, on behalf of the Armed Services Committee, I am pleased to bring to the Senate for confirmation the President's five nominees for the American membership of the Panama Canal Commission Board of Directors. I believe that they are an outstanding group with important and diverse qualifications for their positions, and I am confident that they will insure that the canal is operated in the best interests of the United States.

I would like to take a few moments to refresh the memories of senators on the legislative history of this Commission. The Commission itself was established by the Panama Canal Treaty and the implementing legislation passed last year. There was some controversy between the House and the Senate over the form of the Panama Canal Commission, the agency which will run the canal for the next 20 years, and the makeup of the supervisory Board. The legislation as passed by both Houses and signed by the President specifies that the Commission would be an appropriated funds agency of the Federal Government, and would be responsible to the President through the Secretary of Defense. Of the five U.S. members of the Board, three must be drawn from the private sector, and three (to quote from the legislation) must be "experienced and knowledgeable in the management or operation of an American-flag steamship line which has or had ships regularly transiting the Panama Canal—in United States port operations or in the business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and—in labor matters in the United States."

The three private sector nominees are Capt. J. W. Clark, who is an experienced ship captain and former president of the Delta Line; Clifford B. O'Hara, a transportation executive currently serving with the Port Authority of New York and New Jersey; and William Sidell, general president of the United Brotherhood of Carpenters and Joiners of America.

In addition to the three members of the Board drawn from private life, the President has nominated two members who presently serve in Government positions. Michael Blumfeld is Assistant Secretary of the Army for Civil Works, and has had in the past the primary responsibility within the Department of Defense for supervising the affairs of the old Panama Canal Company. He will continue to play a major role as the Secretary of Defense's representative on the Board of the Commission, and his familiarity with the canal operation will help to insure its continued smooth functioning. The President has also nominated John A. Bushnell to sit on the Board. Mr. Bushnell is Deputy Assistant Secretary of State for Inter-American Affairs and has wide experience in dealing with Latin American issues.

One concern that I had about the three private sector nominees, which I raised at the committee hearings, was whether they would see their role on the Commission as representing the particular perspective of the interest group with whom they have been associated, or whether they would represent what they considered the best interests of the U.S. Government as a whole. All of them assured the committee that, while their individual backgrounds might allow them to play specialized roles on the Commission Board, their primary and paramount obligation was to represent U.S. interests. I might note in this regard that the legislation passed by the Congress permits the Secretary of Defense or his designee on the Board to direct the votes of the American members, where matters of important national interest or policy are involved.

Mr. President, so far as I am aware, not a single objection has been registered about the qualifications or suitability of any of these nominees. The Armed Services Committee reported the nominations without objection to the full Senate. I believe that these men are eminently qualified, that they fulfill all of the requirements of the legislation we adopted last year, and that they should be confirmed by the Senate without hesitation.

I understand, however, that there may be an effort on this floor today to oppose these nominations, not because any of the nominees are considered ill-qualified, but in order to register some kind of a protest against the process of implementation of the treaties. Mr. President, I have no doubt that all of the Members of the Senate understand the reality of the situation we are facing. The Panama Canal Treaties were ratified by this body in 1978. The Panama Canal Act of 1979 was passed last year by the House and the Senate and signed by the President. Both of those documents are legally binding on the United States, and require us to create a board to supervise the Panama Canal Commission. The confirmation of these nominees will fulfill that obligation. I hope that we will not succumb to the temptation to reopen old issues that have repeatedly been resolved by this body.

The suggestion has been made that these nominations should be deferred or rejected because of concern over some objections which the Government of Panama has raised to provisions in the implementing bill we passed last year. During the consideration of the implementing legislation last year, I again and again urged the Senate not to adopt amendments which would violate the letter or spirit of the treaties we had ratified. I am fully confident that the Congress passed, and the President signed into law, a bill which was fully consistent with our treaty obligations.

Mr. President, when he signed the Panama Canal Act last year, the President stated:

> The act provides a framework in which the United States can exercise its right to operate and defend the Canal in a manner consistent with our responsibilities and obligations under the treaty.

The administration clearly does not intend to back away from its support of the legislation that we passed last year.

I know that the President of Panama has indicated that our legislation does not fully comply with the letter or the spirit of the treaty. I disagree with him and, obviously, more importantly, the President of the United States disagrees with him. In any event, the implementation legislation is U.S. domestic legislation. It is not Panamanian legislation, if there ever were such a thing. It is U.S. domestic legislation. Although Panama is free to comment on it, they have no legal right or standing to protest its provisions.

However, we know that there are going to be operational problems and possibly disputes or misunderstandings with Panama that arise as the implementation process is carried out. Indeed, the treaty and the legislation provide mechanisms for the resolution of problems such as these if they arise. We foresaw that there would be disputes, in other words. The two primary vehicles for discussions are the Consultative Committee and the Commission Board itself, both of which have United States and Panamanian membership. Moreover, the implementing bill requires the President to submit to Congress within 2 years a request for any legislation or amendment to deal with issues that have arisen "in light of the experience as of that time under the treaty."

At this point, however, the primary stumbling-block to cooperation between the United States and Panama is our failure to appoint the members of the Commission Board. It has now been 6 months since the treaties took effect, and Panama has a legitimate claim that it has been denied a voice in the canal operation, which it was promised under the treaties, through its membership on the Board. That delay has been the result of U.S. inaction. We must move expeditiously to appoint those Board members so that they can get on with the business of running the canal.

I would also note that reports from Panama indicate that the implementing process has so far been running remarkably smoothly. When Assistant Secretary Blumenfeld testified before our committee, he told us that Panama is completely managing the functions which were transferred to her administration under the treaty. Some of the examples of good cooperation are the successful performance of the joint United States-Panamanian police patrols who are now responsible for maintaining order in the former Canal Zone, and the agreement reached just last week on a schedule for payment by Panama of back debts owed to the United States. If we wish to continue this record of good cooperation, it is incumbent upon us to fulfill our responsibility to appoint the members of the Commission Board and allow it to begin functioning as specified by the treaty and the implementing bill, which we passed just last year.

Mr. President, I commend these nominations and I hope, on behalf of the Armed Services Committee, that they will be speedily confirmed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, I yield myself such time as I may require.

It gives me no pleasure, Mr. President, to be in the position of opposing nominations of American citizens whom I do not even know. Actually, the nominations before us are not the question. The

question is, Will the United States, on this day in April 1980, compound a grevious error that the Senate made a couple of years ago, when it voted to give away the Panama Canal? Senators may think this is an inconsequential matter, but I hope that, by elaborating in some detail, I may be able to persuade some of them that this is, in fact, a question of whether the United States is going to stop this business of retreating in the face of arrogant hostility by other nations.

To set the stage, Mr. President, let me give a chronological list of events which are significant to the pending matter.

On January 8, 1980, the President of Panama, Mr. Royo, sent a letter to President Carter, calling into question the legality and acceptability of the Panama Canal Commission under the Panama Canal Act of 1979. President Royo called it illegal and unacceptable. He listed 20 specific issues, most of them relating to provisions of the Panama Canal Act itself. This from the President of a country that, in fact, blackmailed the United States out of the Panama Canal.

Parenthetically, I might say, Mr. President, that if any Senator is laboring under the delusion that the giveway of the Panama Canal is not yet a volatile issue out across America, he had better check with his constituents back home.

What happened in response to that letter from President Royo of Panama to President Carter, a letter dated January 8? President Carter did not even respond to President Royo until prodded by the Armed Services Committee's questioning of the nominees on March 7.

I submit, Mr. President, that if there ever was a time for the President of the United States to have a little backbone and say to President Royo, "We have had enough," it was when he got that letter of January 8. It was time for the United States to start acting like a great country again.

But the President did respond, finally, when he was prodded into it by the Committee on Armed Services. But when he responded, he did not discuss any of the 10 points raised by President Royo—not one. He did not say, "Wait a minute, Mr. President." He just glided over them, point after point.

Mr. Carter wrote to the President of Panama and said, I find your letter "interesting" and "useful" and he said that he was giving President Royo's views "the most careful consideration."

Back home in North Carolina, they call that Caspar Milquetoast, Mr. President.

Mr. President, yesterday, President Royo addressed the National Assembly, and strongly criticized President Carter's letter, as well as repeating many of his criticisms of the Panama Canal Act, which he charged violated the treaty.

Instead of upholding the provisions of the act, President Carter suggested that he would seek to have the legislation changed in recommendations he would submit to Congress on October 1, 1981, another pig in a poke, Mr. President.

Then President Carter proposed that the problems could be sent to the Panama Canal Consultative Committee (a binational committee set up by the treaty) for further negotiations.

The Senate should not approve the nominees without a clear assurance from the President that he will uphold the position of Congress—this Congress, weak as it was—as embodied in the Panama Canal Act, and not seek to negotiate further on the fundamental issues President Royo has raised. As I said earlier, and I say to the Senator from South Carolina, "enough is enough." To take steps toward the operation of a binational Commission which the other nation feels is illegal and unacceptable will only deepen the rift between the two nations and threaten the future safe and efficient operations of the Panama Canal.

I offer that, Mr. President, as a forecast. I am not clairvoyant, but anybody who understands history and anybody who has studied all of the aspects of the giveaway of the Panama Canal is bound to understand what lies ahead for us down the road.

(Mr. BAUCUS assumed the chair.)

Mr. HELMS. So, here we are, Mr. President. We have before us the nominations of the five U.S. Panama Canal Commissioners and we have been urged and pushed to confirm them with dispatch. Yet, if we do confirm them today, they will be sitting on a board which the President of the Republic of Panama has already termed "illegal" and "unacceptable."

As I said earlier, President Carter waited 2 months to respond to President Royo's letter of criticism, if we can consider it a response, but failed to respond to any of the Panamanian points substantively.

Certainly, there was not one scintilla of standing up for the U.S. position.

The President of the United States blandly assured President Royo that all of the problems could be worked out in the consultative committee set up by the treaties.

Surely, the problems can be, if we give in on every point, which is what we have done up to now.

I fought the giveaway of the Panama Canal as vigorously as I knew how to do it. I shall always remember seeing the late distinguished Senator from Alabama, Mr. Allen, standing over there hour after hour pleading with this Senate to come to its senses. I remember the eloquence of my friend, the distinguished Senator from South Carolina (Mr. THURMOND), when he warned day after day during that lengthy debate about what we were getting ourselves into.

As a result, many of us in this body thought, at a minimum, that the negotiations on the Panama Canal treaties had been completed, terminated, that we had given it all away; and that, surely, there would not be any more negotiations, there would not be any more demands from the Republic of Panama. We thought that the treaties had been amended with reservations and understandings, which were clear to all concerned, and that the implementing legislation had been signed into law, and it had.

But what do we see now? We see the President of the United States proposing continuing negotiations on fundamental issues which President Royo has termed "illegal" and "unacceptable." Inasmuch as the Carter-Torrijos treaty transferred the sovereignty which we exercised in the Canal Zone to the Republic of Panama, and to the dictatorship which rules that hapless country, the bottom line has got to be that Panama has the ultimate interpretation and the final say on any difference which may arise between our two countries.

We arrive at that state because we have given in item by item and chapter by chapter and verse by verse.

I am on the floor this afternoon to say again that enough is enough, that it is time for the President of the United States, on behalf of this great Nation, to exercise a little bit of backbone.

Whatever treaty rights we may have exist only at Panama's pleasure.

I deny that. I reject that. But if we go ahead and approve these nominees, the prospect will be that the administration will continue to negotiate with Panama on substantive issues—issues that Congress thought it had decided long ago.

But, apparently, the Congress does not matter any more. We must bow and scrape to Mr. Royo and his regime in Panama.

So what we have here in all reality, Mr. President, is another giveaway connected with the Panama Canal, another surrender of the interests of the American people to that regime in Panama.

It is not enough that the President gave up our rights to a crucial geopolitical position in the world. It is not enough that the U.S. taxpayers had to pay through the nose—and will continue to pay through the nose—for the privilege of giving up our rights in Panama. But now we see that all the safeguards, the conditions, the restraints that Congress insisted upon as a condition of approving that massive withdrawal of the U.S. presence from the center of the Western Hemisphere, approval of the Panama Canal treaties, have now been put up for grabs.

I believe, Mr. President, that if all Senators had known what the subsequent events would be, that those treaties would not have passed by a 2-vote margin, but would have been defeated by a substantial margin.

We were sold a pig in a poke.

I do not know about other Senators, Mr. President, but as I travel through my State of North Carolina, and around the country, I notice that the American people have not forgotten what this Senate did with respect to the Panama Canal. The sophisticated policymakers here in Washington developed a complicated, inside-out rationale to try to explain why the weakness of surrender somehow strengthens the American position in the world. But the American people have not been fooled. The Ameri-

can people may not be sophisticated, but they possess commonsense.

They know now and they knew then that they were being snookered.

That is the reason it is still a volatile issue around this country, and it will continue to be. If I can contribute to the public debate, I am going to do it for the remainder of this year and as long as I have a public forum.

The American people know that the Carter-Torrijos treaties leave us at the mercy of the Panamanian dictatorship.

They know that the weakness demonstrated in that giveaway has led to the escalation of attacks against the United States and against freedom. They know that the Soviet Union strengthened its position in Cuba after we weakened ours on the isthmus. They know that Cuba stepped up its subversion of governments all around the Caribbean and in waters controlling the canal's approaches—after the Senate made the awesome mistake of giving away the Panama Canal.

The American people know that Cuba, acting in concert with Panama, organized and supplied the Marxist takeover of Nicaragua. They know that Cuba is now working to destabilize El Salvador and Guatemala.

They know that U.S. diplomats all around the world are now targets of opportunity for any leftists group seeking to publicize its cause and to humiliate the United States.

When our friends around the world see the United States on the run, they begin to run too, but in the opposite direction.

As I say, we cannot fool the instinctive good judgment of the American people, and the American people have not been fooled on this issue.

I suggest, Mr. President, that the American people are watching the U.S. Senate today to see whether or not the Members of this body will be fooled again.

The Senate will be fooled again, if we confirm these Panama Canal Commissioners without getting a clear commitment from the President of the United States that the fundamental decisions of the Congress will not be ignored.

The issue is very clear. President Royo, in an arrogant way, declared the Commission to be illegal and unacceptable.

What, then, is the position of President Jimmy Carter? He has not said. Will Mr. Carter continue to maintain the positions established in U.S. law against the demands of the Panamanians? Or will he continue to pretend that there are not any substantive differences between the United States and Panama? Or, if there are differences, will the congressional position be maintained? Who knows?

So the American people are going to be watching very closely to see how their Senators vote on this issue. I am going to move to commit these nominations to the Foreign Relations Committee, so that we can have hearings on this unsettled issue, so that we can ascertain, if we can, just how willing the President of the United States is to stand up for the interests of the United States. I scarcely see how any Senator could deny the American people that right and that opportunity, because this is a vital issue. It is a sign-post along the road, further disclosing the direction in which the United States is headed in terms of will, backbone, and reliability.

This vote will be a litmus test of a sort to see whether the Senate upholds a solid, well-defined position in world affairs, or whether we intend to knuckle under again to another vague, ambiguous policy that can only spell defeat or retreat.

So I do not want anybody to try to paper over these nominations as being inconsequential. This is not an issue which can be fudged over and ignored.

You had better believe that President Royo is having his say over and over again. This morning, I learned that President Royo spoke on this matter only yesterday to his hand-picked national assembly. What did he say? Does anyone imagine that President Royo is satisfied with President Carter's bland nonanswer to the rather arrogant letter that Royo had written to Mr. Carter? If anyone assumes any such thing, that person should change his mind, because Mr. Royo is not at all satisfied.

I suppose that even a tinhorn dictator has his pride. President Royo was highly critical of President Carter's failure to respond to his concerns.

Royo continued—and this was only yesterday to the Panamanian National Assembly—to refer to "irregularities" in the implementing legislation passed by this Congress and signed by the President of the United States. He said that the Republic of Panama would not tolerate anything not in accord with the letter and spirit of the treaties, and that means according to Panama's interpretation. Mr. Royo is not going to use any interpretation except his own.

I believe I should reiterate, just as a point of emphasis, that these comments just referred to by Mr. Royo were made yesterday; so this matter has not been settled. Royo said that Congress had delayed to the last minute the approval of legislation and that it contained violations of the treaty. Of course, I suppose that anybody who is president of a military dictatorship probably does not understand how a free legislative body works or, for that matter, how the Congress of the United States in particular has a duty to stand up for the interests of the American people, no matter what our diplomats try to do.

Yesterday, Royo also criticized the administration's delay in naming the Commissioners, saying that it was a deliberate plan to distort the implementing legislation. He was highly critical of the failure of the law to provide for a minimum wage for all employees, and he attacked the requirement that the Panamanian Commissioners had to be sworn in. He does not even want them sworn in.

So, as of yesterday, President Royo was strongly opposed to the structure and the operation of the Commission that, in effect, we would set up today by the confirmation of the nominations of these Commissioners.

What did President Royo object to in his letter of January 8? As I said earlier, there were at least 20 substantive points, possibly more than that. I counted 20.

First. He objected to the fundamental status of the Panama Canal Commission, which is located by the implementing legislation under the Secretary of Defense.

Second. He complained that the lack of independent authority for the Commission turned it into a "supervisory board" rather than a Board of Directors.

Third. He said that the Commission has an "illegal mandate" as "an appendix of the Defense Department," which violates its special and independent legal status.

Fourth. He objected to the legal definition of a quorum for the Commission, which consists of an internal majority of the U.S. members.

Fifth. He objected to the fact that appropriations for the Commission must be approved by Congress.

Sixth. He objected to the requirement of section 1302(c)(2) of the implementing legislation that no funds can be made available in any fiscal year beyond the income generated by the canal plus any balances from the preceding fiscal year.

Seventh. He complained that the House, exercising its constitutional authority, rejected the inclusion of two appropriations of $2 million and $5.9 million in the 180 budget to pay off the debts of the old Panama Canal Company

Eighth. He criticized the fact that funds were not appropriated for the $40 million contingency fund authorized by section 1303(a).

Ninth. He objected to the requirement that the payment of $10 million for public services for Commission employees must come from operating revenues.

Tenth. He objected to the provision for accumulating losses against any surplus for calculating the $10 million payment to come out of that surplus.

Eleventh. He objected to the inclusion of $14.8 million in interest from the unrecovered U.S. investment in the construction of the canal, and $16.7 million to amortize the employees retirement fund in the definition of "costs" to be paid out of operating expenses.

Twelfth. He objected to the removal of coverage of Panamanian employees from the U.S. minimum wage requirement.

Thirteenth. He objected to section 1102(b) which says that board members (and by implication, Panamanian board members) retain their posts at the discretion of the U.S. President.

Fourteenth. He objected to the application of a code of conduct to Panamanian board members, saying that it violated their jurisdictional status.

Fifteenth. He objected to the administration's delay in appointing the board.

Sixteenth. He demanded that the Deputy Administrator have access to all information and participate in all decisions of the Commission.

Seventeenth. He insisted that Commission regulations be readjusted to Panamanian law.

Eighteenth. He demanded that the Chief Engineer to be a Panamanian citizen.

Nineteenth. He objected to the legal requirement that the office of ombudsman be filled by a U.S. citizen.

Twentieth. He charged that Congress tried to hinder application of the treaty and created serious obstacles to the Canal Commission's ability to administer the waterway efficiently and properly.

All these are matters which were thrashed out on this floor and, in some cases, on the floor of the House of Representatives. In any event, these are things which represented the will of the American people, as expressed by its Congress.

Mr. Royo made himself clear, but Mr. Carter did not even respond to the points. He did not stand up for the United States. He found Mr. Royo's comments very interesting. He said they might be "useful." What kind of backbone is that?

Mr. President, when we examine Mr. Royo's objections, it is obvious that most of them are directed toward the legislation passed by Congress. A few of them are the results of administrative decisions, but most of them are objections to the law. They are objections to our constitutional process. Yet, the President of the United States did not respond with even one syllable in defense of the position of the United States and the American people.

I have put a great deal of information in the RECORD in the last few days, including the Royo letter and including Mr. Carter's "response." I should like to read them all to build the chronology, but that would take too much time. I assume that Senators have paid some attention to this matter, and I wonder if Senators are not deeply disturbed by Mr. Carter's letter in response to Mr. Royo.

Mr. Carter said that these fundamental criticisms are "interesting and useful." Thereby, he totally dismissed the validity of President Royo's letter. Why did not the President stand up for Congress and the American people?

Then Mr. Carter said, "We are giving them the most careful consideration."

Mr. President, that sounds like some of these form letters that go out of Senator's offices. Some fellow writes to a Senator and says, "I think you ought to do this and I think you ought to do this and I do not like this and I do not like that."

The Senator writes back: "Thank you so much for your letter, and I will bear in mind what you said."

That is a nonanswer. But it comes from a Senator or from a President.

I wonder how many form letters have been sent out from the Capitol, from Congress, with almost exactly that boilerplate sentence, "We are giving them the most careful consideration." I have to be frank about it. I wonder if Mr. Carter himself has even read the Royo letter. If he has not read it, that is one thing; if he has read it and if he is not indignant, that is another thing.

But the point in my motion to recommit these nominations after the time has run out or been yielded back is that the Foreign Relations Committee should find out what is what.

I do not know what the President means. I am not sure that the President knows what the President means. But I think it is the duty of this Senate through the mechanism of its Foreign Relations Committee to find out and to report back to this Senate and not rubberstamp these nominees as though they do not matter.

But back to President Carter's response to Royo. He said: "I share your views on the importance of monitoring the initial stages of treaty implementation."

The problem with that, Mr. President, is that Royo expressed no views on the importance of monitoring implementation. He was interested in the implementation, period; he was not discussing its "importance."

So I have to conclude that someone down in the bowels of the State Department just put some boilerplate language in a letter, sent it over to the White House. They used the autopen and signed the President's name to it, and there it went.

And then the President said:

> As you know, the Panama Canal Act of 1979 requires me to make recommendations to the Congress by October 1, 1981, regarding necessary or desirable modifications in the implementing legislation.

What was the President saying there? What Mr. Carter was saying, as I understand it, is that instead of upholding the reasonability of laws passed by Congress he, the President of the United States is going to seek to change them.

Then he goes on, and this is Mr. Carter's letter to Mr. Royo:

> Many of the problems that have arisen so far, however, do not appear to be the result of legislative requirements and so we need not wait for legislative action to address them.

Mr. President, what on Earth is the President of the United States talking about?

I have already enumerated the criticisms stated clearly and arrogantly by President Royo. Almost none of them are the result of administrative action. They are the result of legislative action.

So I ask you again, Mr. President, what is the President talking about? Does he mean that the law could be explained away or reinterpreted in a sense other than that intended by Congress?

I hope we have not gone that far in this country.

Is President Carter going to continue to negotiate on issues that Congress thought were settled at the time Congress made the mistake of giving away the Panama Canal? That appears to be the meaning.

President Carter said:

> In such cases, I believe problems might usefully be referred for study and recommendation to one or more of the committees established by the treaties. The Consultative Committee, with its collaborative and independent views, could be especially helpful.

So clearly we are going to have to have continuing negotiation and continuing interpretation, continuing surrender, with Congress cut out of the process entirely.

Mr. President, I ask unanimous consent that President Carter's letter be printed in its entirety at this point in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., March 3, 1980.

His Excellency ARISTIDES ROYO,
President of the Republic of Panama, Panama

DEAR MR. PRESIDENT: Thank you for your letter of January 9. Your comments and observations on various aspects of the Panama Canal treaties of 1977 and the related implementing legislation were interesting and useful. We are giving them the most careful consideration.

I share your views on the importance of monitoring the initial stages of treaty implementation. As you know, the Panama Canal Act of 1979 requires me to make recommendations to the Congress by October 1, 1981, regarding necessary or desirable modifications in the implementing legislation. In preparation for this task, it is important that we identify any specific problems that can be attributed to the legislation itself.

Many of the problems that have arisen so far, however, do not appear to be the result of legislative requirements and so we need not wait for legislative action to address them. in such cases, I believe problems might usefully be referred for study and recommendation to one or more of the committees established by the treaties. The Consultative Committee, with its collaborative and independent views, could be especially helpful.

I am pleased, as I am sure you are, that the spirit of cooperation built up during the negotiation of our new treaty relationship has carried over into the initial period of implementation. Because of the intrinsic technical and political problems, differences of opinion will undoubtedly arise from time to time. But I am confident that we will be able to resolve such differences satisfactorily by building on the firm and successful foundation we have already put in place.

In closing, I want to assure you once again that the United States is as deeply committed to making these treaties work as it was to building the Canal. I look forward to continued cooperation and correspondence on whatever difficulties may arise.

Sincerely,

JIMMY CARTER.

Mr. HELMS. What this means, Mr. President, is that Panama will continue its successful tactic of threatening and blackmailing the United States and humiliating the United States and the American people until Panama gets precisely and exactly what it wants. Indeed, President Royo says almost precisely that. Let us quote from his letter, and this is from Royo to Carter:

> To be frank, Mr. President, I must state that our nation has not waged from 1904 to 1977 a tenacious struggle, leading to the sacrifice of blood—a date which precisely today we commemorate with devotion—so that the important achievements of the recent treaty will be denied by P.L. 96-70; and if such a denial is maintained, the present and future generation, no doubt, will also struggle—

Get the nuance, Mr. President—

will also struggle, as has occurred in the 80 years of this century, to raise the banner of justice to achieve the genuine sovereignty which, notwithstanding the provisions of the Torrijos-Carter treaties, certain U.S. sectors, which have still not understood the significance of respect of the dignity of the Panamanian people, still seek to disregard.

The reliance on threat and violence is still part and parcel of the Panamanian strategy.

But the threat is also more sophisticated. Late last month President Royo went to Japan to seek funds for building a new canal, a sea-level canal. Now we need not worry that such a canal will ever be built. The sea-level proposal is a hardy perennial that is neither cost effective, ecologically sound, or economically advantageous for the economy of Panama. Every once in a while the heavy equipment manufacturers, certain engineering circles, and financial consortiums drag out the proposal because of obvious self-interest. The Japanese are sound businessmen, and I doubt that they will be impressed with the details.

The incident demonstrates a more sophisticated attempt at blackmail—if the United States does not agree to everything Panama wants, then Panama will go elsewhere. Panama, of course, has that right; but the withdrawal of the United States from a positive juridical base in the Isthmus means that we must once again face the prospect of non-Western Hemispheric powers getting a foothold in the Western Hemisphere.

Mr. President, it behooves us to know where we stand, and we do not know where we stand now.

This Senate should insist on behalf of the American people that we know where the President of the United States stands on this vital issue.

The American people have a right to know where each of their Senators stand on the Panama Canal. If we confirm these Commissioners today without knowing where the President stands on United States rights under the Panama Canal treaties, then we will deserve every ounce of the retribution which the American people will surely, surely cast upon us.

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

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield to the distinguished Senator from South Carolina such time as he may require.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from North Carolina.

Mr. President, I commend the distinguished Senator from North Carolina for taking the stand he has on this important issue and congratulate him for the splendid manner in which he has presented it. In fact, I think he has covered it so fully it will not be necessary for me to go into much detail in my presentation.

The distinguished senior Senator from North Carolina (Mr. HELMS) has raised an important issue in connection with the Panama Canal Act of 1979 which the Congress passed last year to implement the Panama Canal treaties approved in 1978.

During Senate hearings on the nominees, the distinguished senior Senator of Virginia, and others, raised the question as to the position that President Carter would take in response to the January 8, 1980 letter from President Royo of Panama. In this letter President Royo held that the Canal Act violated the "spirit and letter of the Panama Canal treaty" and therefore was "not acceptable" to his government.

This is a serious charge and goes to the heart of United States-Panama relations which will determine whether or not the treaties of 1978 will operate to the benefit of the two nations.

President Carter's response to President Royo, which was finally made public by the distinguished Senator from North Carolina (Mr. HELMS) after the Armed Services Committee had reported out the nominations, is lacking in substance and does not address any of the charges made by President Royo.

Mr. President, I have no objection to the individuals named by President Carter to represent the United States on the Commission. In fact, I consider the Commission the centerpoint of the legislation passed by Congress and believe it offers the best hope for operation of the canal in an efficient manner which should lessen the burden of these treaties on the American taxpayer.

Mr. President, I opposed the treaties and the implementing legislation because I believed that U.S. military and economic interests will suffer because of these actions. However, I do believe that since the Congress has now acted, every effort should be made to carry out the Canal Act as the best guarantee that the vital interests of our Nation will be protected.

The question now arises, however, as to just what is the Carter administration policy towards the provision of the act and the objections by Panama? President Royo has made it clear that the position of his government is that the Canal Act of 1979 is not the legal instrument for the implementation of the treaty.

Panama objects to the Panama Canal Commission itself, the centerpiece of the implementing legislation. President Royo states, in no uncertain terms, in his letter that:

The law, in its general content, is illegal, contrary to the legitimate interests of both parties, not acceptable because of the modus operandi it establishes and unacceptable in every way for the Republic of Panama.

Now what is the response of our Government to this situation? President Carter's reply, which we obtained only recently, takes the position that our Government considers Royo's views as "interesting and useful" and deserving of the "most careful consideration." Nothing is said by President Carter that Congress acted within its full rights and our law is sound and firm.

Mr. President, it is rather clear to me that the Congress must proceed in this matter in only the most cautious way. Therefore, in view of the President's response, it would seem proper for the nominations of the U.S. Commissioners to be referred to the Foreign Relations Committee for its consideration. This would enable the committee to have an opportunity to hear further from the administration on this very vital and sensitive matter. I therefore support the motion to commit the names of the nominees as a means of achieving that purpose.

I understand this motion has been or will be made by the able Senator from North Carolina.

Mr. President, I want to say that, of course, the matter of the Panama Canal being given away by our country has been settled by the Senate through the treaties and, I believe, passed by only two votes.

In my opinion, one reason why Ronald Reagan has made such an impression in the last 3 years in this country has been his strong stand on the issues, telling the people where he stood, letting the people be taken into full consideration, and one of the issues upon which he took a strong stand was that of the Panama Canal, opposing giving away the Panama Canal.

As I stated previously, I opposed this action. We not only gave the canal away but we, in effect, and I believe the facts will show, are paying Panama over the period of years about $4 billion to take it.

The people of this country were aroused by that action, and they opposed this action. The polls showed heavily, 75 or 80 percent, that they opposed giving away the Panama Canal, and I commend Ronald Reagan for taking that position.

I was terribly disappointed and surprised when the Senate voted to ratify the treaty which, I understand, was done with a lot of pressure upon Members of the Senate.

As I said, that has been done, and now the instrument that we passed implementing that treaty speaks for itself. Evidently President Royo, of Panama did not like that implementing law and he goes so far as to state, as I just pointed out a few moments ago, that "The law in its general content," speaking now of the implementing treaty, "Is illegal, contrary to the legitimate interests of both parties, not acceptable because of the modus operandi it establishes and unacceptable in every way for the Republic of Panama."

Mr. President, if that is his feeling, what is going to happen, if in this short interim period, we have that much diversity of opinion between our Government and Panama? It seems to me this ought to be clarified before we go appointing Commissions.

I was very much surprised that President Carter did not answer those points and protect the law passed by the Congress which he signed. I was surprised he did not answer allegation after allegation that was made by the President of Panama, Mr. Royo.

Now, Mr. President, instead President Carter wrote President Royo that our Government considers Royo's views as "interesting and useful." Well, how could they be interesting and useful if they are not in accord with the act we passed? What President Royo of Panama was

advocating in his letter to President Carter was not in accord with the law we passed. So what is our President saying to the President of Panama? He also went on to add this, which is amazing. This is President Carter's letter in which he says that President Royo's views are deserving of the "most careful consideration."

Well, what further considerations can we give if it conflicts with the law we passed? Why did he not tell him straight out that Congress has passed a law that advocates certain things, and these are the provisions of the law and that he, as President of the United States informs him that:

It is my duty to uphold the law. I took an oath to uphold the law, and as President of the country I intend to do that?

Instead of that he is evidently trying to pacify him, and he is trying to go along and palliate him in some way that could cause misunderstandings that later may cause a very bad breach between the two countries.

I found that when you try to compromise something that should not be compromised, and when you take a weak, vacillating position when you should take a firm and strong position, that it generally ends up in a way detrimental to those taking such a weak and vacillating position.

That means it would not be best for our country.

Mr. President, again, I expect to back the motion of the distinguished Senator from North Carolina to refer this matter to the Foreign Relations Committee. I hope that this matter can be clarified before these Commissioners are confirmed.

As I stated, I have no objection to these particular gentlemen, the people who have been appointed to the Commission, but I believe this matter deserves clarification.

I do not think President Royo's letter, as he wrote it, should go unanswered. I think our President ought to answer it, allegation after allegation, and let him know what this law does hold, and he expects, as President, to stand by the law.

He took an oath to do it and I think he has an obligation to do it.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, the issue this afternoon is, of course, not whether or not we like President Royo's letter or whether we happen to agree with it. The question is whether we will confirm these nominees.

The question before us this afternoon is not whether or not we like President Royo's letter or agree with it, and I do not think anybody in the Chamber does, but the question is whether or not we are going to carry out our own commitments under our own legislation, which we believe carries out the treaties—at least I hope we do. I think everybody in this Chamber believes that our treaties are carried out by that legislation. The President certainly believes that the legislation carries out the treaties.

Let me quote from the President when he spoke at the time of signing the Panama Canal Act, the act that we passed last September. The President said that:

The act provides a framework in which the United States can exercise its rights to operate and defend the Canal in a manner consistent with our responsibilities and obligations under the treaties.

To pull out the operative words, the President said that the act carries out our obligations under the treaties. That is what he said when he signed the act. I think his position on that is certainly clear, and I do not believe that his position on that, in any event, is the issue this afternoon.

Again, the issue this afternoon is whether or not our own act, which says that we shall appoint people to run this canal and to supervise our agency that runs it, is going to be carried out. I have not heard one word this afternoon in opposition to the nominees. I have not heard one word this afternoon in opposition to our own statute. Apparently there is unanimity on this floor that our own statute carries out the treaties.

What we have heard this afternoon is a disagreement with the President's response to a letter sent by the president of Panama. Again, that is not the issue. The issue is whether or not these nominees should be confirmed.

The issue is whether or not we are going to have a board to supervise the agency which runs this canal, or are we going to continue to leave this in limbo?

If Panama has any gripe, and I think they only have one, that gripe is that we have not appointed and confirmed the board which we said we would appoint and confirm under the treaty and under the implementation legislation. That is the only gripe that Panama has. It seems to me that we are giving them ammunition when we continue to delay the confirmation of these appointees against whom nobody has raised any objection.

The American people are indeed still divided on the Panama Canal treaties. I do not have any doubt about that. But if the American people are united about anything, they are united that we should carry out our commitments once they are made. Two-thirds of this Senate plus two ratified the Panama Canal treaties, for better or worse. I do not think anyone wants to re-argue that this afternoon, or at least I hope not. The Senate by about a two-thirds vote last year approved the implementation legislation to implement those treaties. I do not believe anyone this afternoon wants to re-argue the wisdom of that legislation. It was adopted by a vast majority of the Senate.

At the time we went through that legislation, we went through all of President Royo's objections to it, point by point. We went through his objections and we analyzed those objections. We found them wanting. We did not agree with his objections at that time. I do not think we agree with those objections now, or least I do not. He can restate those objections again next week or the month after, and I do not think that should deter us from doing what we said we were going to do under our own law. That is, to appoint a commission which will supervise the agency that manages the Panama Canal.

It is not in our interest to continue to have that uncertainty and that confusion down at that canal. It is in our interest to get on with the job we said we would do when we adopted the legislation last year.

This is domestic legislation, Mr. President. President Royo and anybody else who lives abroad or lives anywhere has a right to comment on domestic legislation in the United States if they want to. But their comments are not binding upon us. Those comments of President Royo are not binding on us when it comes to our own domestic legislation. That implementation act was a domestic bit of legislation.

Our Constitution and the statutes which are adopted pursuant thereto, and the treaties agreed to thereto, are the supreme law of the land. We all do not agree with all of the statutes, I know, or with all the treaties. My friend from North Carolina certainly has pointed that out.

But I think that once we do decide to act, once there is a majority or in this case two-thirds of a vote in the Senate to ratify a treaty or adopt a bill, then it is time for us to carry out what we said we would do, whether or not somebody who lives in Panama or who lives anywhere else happens to agree with the contents of that bill. I do not agree with President Royo. I believe our President has made it clear that he does not agree.

He made the statement at the time of the signing of this act adopted last year that the act does carry out the obligations under the treaty. Those are words from the President's statement.

The issue is not whether we think the President has stood up for this bill. That is an issue that my friend from North Carolina and I disagree on.

The issue is whether or not we are going to be deterred by President Royo's comments from doing our duty. Is this Senate going to be stopped from doing what we said we wanted to do in this bill because President Royo has said that the bill that we adopted is not consistent with the treaty? Would we be deflected by President Royo's letter? Will we be stopped? That is the issue. The issue is whether we are going to do our duty as the U.S. Senate in voting to confirm appointees which our bill, which we believe is consistent with this treaty, provided for.

No problem has been raised with the appointees. No problem has been raised by the bill, except the problems raised by President Royo. The only problem that we have heard about this afternoon is the problem that has been raised with the President's response to President Royo. Unless someone in this Senate has objections to these appointees, or unless someone in this Senate feels that our bill is inconsistent with the treaty, it seems to me that we should get on with the job of confirming the nominees who have been submitted to us.

The Armed Services Committee re-

ported these nominations without any objections.

There is only one thing, Mr. President, that can humiliate us. Certainly, President Royo's letter cannot humiliate us. There is only one thing that can humiliate us, and that is if, by our own inaction, we make it impossible for our own appointees to manage this canal. Nothing else do we have to be ashamed of nor do we have to defend.

We do not have to respond again and again and again to President Royo's objection to this legislation. We said at the time the legislation was before us that we did not agree with his objection. At that time, we discarded those objections which had no merit and, at that time, we passed a bill which we believe carries out the treaty obligations. It is what we believe that counts—not what President Royo believes, but what we believe, as the U.S. Senate, about our own legislation, which counts.

This is, again, our legislation. It is not President Royo's legislation. It is our domestic legislation. We approved this legislation by a vote of 2-to-1. He may think of it what he wishes, but it is our opinion and our counsels' opinion. We have been advised by the best lawyers that we can find that this legislation carries out our treaty commitments.

President Royo's letter to the contrary notwithstanding, we should confirm these nominees this afternoon. Let us not let a letter that we disagree with deter us from doing our own duty. That is where we are right now and that is why, Mr. President, I hope that the motion to refer back to the Committee on Foreign Relations, if I understand the motion of the Senator from North Carolina, will be rejected by the Senate this afternoon.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, under the order that was entered, the vote or votes on the nominees were to begin no later than 4 p.m. today. That order would preclude a motion to recommit the nomination. Mr. HELMS wishes to move to recommit. Therefore, I ask unanimous consent that a motion to recommit by Mr. HELMS be in order and that he may be recognized no later than 3:45 p.m. today to make such motion. I say no later than 3:45 p.m. because that would still maintain the order to vote on the nominees no later than 4 p.m. if the motion to recommit should fail.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HELMS. I suggest the absence of a quorum, equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I intended that the motion to recommit which Mr. HELMS would be permitted to make would be a motion en bloc.

The PRESIDING OFFICER. The Chair understands the motion.

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

Mr. HELMS. Mr. President, I yield whatever time I have remaining to the able Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I shall support the motion to recommit the nominations to the Panama Canal Commission to the Senate Foreign Relations Committee. By doing so I am not casting an aspersion on the nominees but, rather, on the Panama Canal Treaty itself.

My distinguished colleagues will recall that nine U.S. Senators were defeated in their reelection bids in 1978. Of these, eight had voted for the disgraceful Carter-Torrijos Panama Canal Treaties. I believe that the voters in 1980 will again show that they have not forgotten the giveaway of our canal in Panama.

Our country has only begun to feel the effects of the disastrous decision of this body in approving these treaties. Marxist elements throughout Latin America perceive this American retreat as a sign of weakness. They see correctly. Marxist subversion and terrorism are growing by leaps and bounds as they sense in our Government a growing lack of will to resist them.

Nicaragua has fallen to a largely Marxist coup. El Salvador is next on the target list, followed closely by Guatemala. The horror of the situation is heightened by the fact that the Carter State Department appears to be working primarily to undermine the position of the anti-communist elements in these endangered countries. According to the Wall Street Journal, our newly appointed Ambassador to El Salvador, Robert White, has gone so far as to attack El Salvador's business community as the source of much of the violence currently taking place in that country. In the words of one El Salvadoran businessman:

> We knew the U.S. was trying to find someone to blame for the violence in El Salvador but in our worst nightmares, we never thought it would point at us.

Mr. President, I ask unanimous consent to have the complete text of this article printed in the RECORD.

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

[From the Wall Street Journal, Apr. 1, 1980]

U.S. SHOCKS BUSINESSMEN IN EL SALVADOR BY ACCUSING THEM OF FUNDING VIOLENCE

(By Beth Nissen)

"We knew the U.S. was trying to find someone to blame for the violence in El Salvador," says a member of the business community in the Central American nation, "but in our worst nightmares, we never thought it would point at us."

The remaining members of the once-dominant Salvadoran business community expressed shock at U.S. Ambassador Robert E. White's denunciation of them for their role in the political violence that has killed more than 700 this year. In a speech Friday before the San Salvador American Chamber of Commerce, Mr. White accused the businessmen of financing "hit squads" and killing and torturing opponents of the right.

Mr. White offered a "working hypothesis" that right-wing political groups are responsible for the March 24 assassination of Archbishop Oscar Arnulfo Romero, a popular champion of human rights.

"I'll tell you on good authority that sectors on the left were surprised by the archbishop's death," Mr. White told the assembled businessmen. "They didn't know how to react. If you have a plan to kill someone, you also have a plan to exploit that situation. The left didn't."

With or without such a plan, reaction to the prelate's death was violent. Dozens of people were killed in demonstrations last week, and at least 40 died during an emotional funeral for the archbishop Sunday, when an explosion and gunfire set off a panicked stampede among the 80,000 mourners.

VICTIM OF MISINFORMATION

The sources of the explosion and gunfire were undetermined, although both leftist and rightist extremists were blamed. "How can you possibly assign blame for this chaos?" asked Jose Eduardo Palomo, president of the National Association of Private Enterprise, the country's leading business organization. "Mr. White's statements have made me a target for everyone. If anything happens to me, he's going to be responsible. I will be one more victim of U.S. misinformation."

There has already been one such victim, but a decidedly live one. Mr. White, who has been ambassador in this embattled country for only a few weeks, surprised his business audience by announcing and deploring the death of leftist leader Juan Chacon. Mr. Chacon turned up to hold a news conference only hours later.

Despite the damaging mistake, which the American embassy suggests was a deliberate attempt to embarrass the ambassador and the U.S., the State Department has strongly backed Mr. White's harsh criticism of the Salvadoran business community.

"It's quite clear that the right wing is guilty of some very serious terrorism," a State Department official says. "Do you think the left is going in for great collective suicide? If some members of Mr. White's audience are upset, maybe they are feeling a little guilty."

Members of that audience, reached by telephone yesterday, insisted they are feeling only frightened and betrayed. "We thought the U.S. would defend free enterprise," one coffee grower says. "Now we are made to fear the Yankees as much as the Communists—maybe more, because they are an unexpected enemy."

SUPPORT FOR JUNTA

The wealthy elite who once practically owned and ran this tiny, coffee-rich country didn't expect the U.S. to so strongly support the moderate military-civilian junta that took power last October from right-wing President Carlos Humberto Romero.

To the businessmen's dismay, the U.S. approved and supported the junta's recent expropriation of about 60% of the country's richest private farms and the nationalization of the banking system. And last week, the Agency for International Development announced that El Salvador will receive $13 million in U.S. aid. "Next, the U.S. will just send in the Marines to kill anyone in a three-piece suit," a bitter former landowner says.

Mr. White's broad condemnation of Salvadoran businessmen promoted some to defend themselves by admitting the limits of their political involvement. "Of course I have played a role in this tragedy," one wealthy businessman says. "Like many, I paid to have my workers propagandized against the lies of the left, and I gave money I suspected would go for guns. And, yes, I think a few of

us paid to have evil men killed. The U.S. can rightly blame us for X and for Y, but not for the whole alphabet."

While leftists in San Salvador expressed hope Mr. White's censure of the oligarchy would, as one put it, "bring the world's scrutiny down on this "upstanding class," it didn't lessen the left's hostility to the U.S. Mr. Chacon, the leftist leader, cited Mr. White's erroneous announcement of his death as part of "a campaign of misinformation" to provoke more violence between leftist and rightist groups.

One grieving and weary priest in San Salvador says, "This may be all the left and right agree on: that in trying to mediate, the U.S. is pouring more fuel than water on the fires here."

Mr. HUMPHREY. Mr. President, this is happening against the backdrop of blatant claims by President Royo that his—

Government cannot but consider that the law (i.e.; Public Law 96-70: the Implementing Legislation to the Panama Canal Treaties of 1978) in its general content, is illegal, contrary to the legitimate interests of both parties, not acceptable because of the modus operandi it establishes, and unacceptable in every way for the Republic of Panama.

Specifically, Royo criticizes provisions of the law that subordinate the Panama Canal Commission to the U.S. Secretary of Defense.

Mr. President, I, for one, feel that it is premature to vote on the nominations to the Panama Canal Commission until we are certain that Panama intends to abide by the implementing legislation to the Panama Canal Treaty of 1978. The fact that the Senate is being asked to do otherwise is just one more example of the administration's failure to learn from its past mistakes.

Their maneuvers in Latin America look quite similar to their policy or pressure on the government of the Shah, which resulted in the current hostage crisis, which is the most humiliating situation this country has ever endured.

I trust the American voters, given an awareness of the facts, they will make the right decisions. That is one reason why I welcome this opportunity to discuss again the American tragedy of the canal treaties and our current foreign policy weakness.

Mr. President, if it is in order, I ask for the yeas and nays on the confirmation vote—if that is in order at this point.

The PRESIDING OFFICER. Is the Senator requesting the yeas and nays en bloc?

Mr. HUMPHREY. That is correct, on the confirmation vote.

Mr. ROBERT C. BYRD. That would mean one vote?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. En bloc, or to call for just one vote?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

It is in order to order the yeas and nays.

Is there a sufficient second?

Mr. STENNIS. Mr. President, what is the request of the Chair, if the yeas and nays are in order? I just want to hear it. Will the Chair state what the motion is?

The PRESIDING OFFICER. The Senator from New Hampshire requests the yeas and nays on the five nominations en bloc.

Mr. ROBERT C. BYRD. No. No, Mr. President, the request was not for the yeas and nays. We do not give the yeas and nays by request. We follow the Constitution in that regard.

The PRESIDING OFFICER. The request, as the Chair understands it, is that the request for the yeas and nays be in order.

Is there objection?

Mr. STENNIS. I would like to have a statement of it. I just walked into the Chamber. I heard something, and this is from the Armed Services Committee, about these nominations. I came to the Chamber immediately when I learned there was some question about these nominations.

All I am asking now is, what is the parliamentary situation? What is the request or the motion?

The PRESIDING OFFICER. The Senator from New Hampshire requests and asks consent it be in order to ask for the yeas and nays on the five nominees to the Panama Canal Commission.

Mr. STENNIS. En bloc?

The PRESIDING OFFICER. En bloc.

Mr. STENNIS. Yes.

I do not know whether or not there is controlled time.

Will the Chair inform the Senator from Mississippi what the parliamentary situation is?

I am trying to save time. It is customary to let a chairman know about the situation.

The PRESIDING OFFICER. There are 28 minutes, 11 seconds remaining under the control of the Senator from Michigan. The Senator from Michigan is controlling the time in favor of the nominees.

Mr. ROBERT C. BYRD. Maybe I can help the distinguished chairman.

Mr. STENNIS. Yes.

On the controlled time, I would like to know just what the operation is, and is this a motion to transfer?

Mr. ROBERT C. BYRD. May I say to my friend, the distinguished chairman, it has been ordered that a motion would be in order by Mr. HELMS to commit the nomination en bloc to the Foreign Relations Committee and that that motion will be made no later than 3:45 p.m. today; and that if that motion fails, then the vote on the nominees would occur at no later than 4 o'clock.

Mr. HUMPHREY was asking unanimous consent that the vote occur on the nominees en bloc, so we would not have the votes seriatim, five votes. Just one vote.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HUMPHREY. Mr. President, I am not certain the situation is clear.

My unanimous-consent request was that the yeas and nays be ordered on the confirmation vote, should we reach that stage.

Mr. ROBERT C. BYRD. Mr. President, I object to that request.

I object to the ordering of the yeas and nays by unanimous consent.

If the Senator would ask unanimous consent that a vote occur on the five nominees en bloc, if that is what he wishes, I would have no objection.

Mr. HUMPHREY. I consent to that.

Mr. President, I ask for the yeas and nays, if it is in order at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays on the final vote of confirmation.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The remaining time is controlled by the Senator from Michigan.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I yield to the chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), such time as I have remaining.

Mr. STENNIS. I thank the Senator.

Mr. President, I will get at this matter the best I can, with the facts I have as to the situation.

These are five people nominated by the President of the United States for the positions we set up in the bill which was completed the latter part of last year, for the new situation in Panama with reference of the Panama Canal.

The measure we passed on this subject provided that one of the members should be an Assistant Secretary of the Army, and this is Mr. Blumenfeld. He fills that position.

The bill provided for an Assistant Secretary of State, and Mr. Bushnell, of Connecticut, fills that role.

The bill set out the qualifications for the others: one to be someone versed in shipping or in the use of ships, and that was Mr. Clark, of Louisiana. He is a former ship captain and had been president of the Delta Lines of Louisiana.

In that connection, the two Senators from Louisiana appeared at the hearing and vouched for these men and supported them, as did Representative LINDY BOGGS, of Louisiana, a long-time Member, a popular Member, and a knowledgeable Member of the House.

Mr. O'Hara was appointed to fill another role; he has had experience in transportation.

Mr. Sidell, of California, is a former official in the carpenter-labor field. The bill provided for someone with that kind of experience.

Mr. President, these hearings were held after due notice given by the Armed Services Committee. As chairman, I asked Senator LEVIN to occupy the chair.

He is familiar with the law. He examined the background of these nominees. So far as he knows and so far as I know, not one word, not one syllable of testimony came from any source in opposition to these nominees. I did not hear anything on the record or off the record, day or night, to the contrary.

The nominations were reported unanimously by the Senate Armed Services Committee. That has some meaning. It means that those who were charged with the responsibility of looking into the matter and making a decision on it and recording it fulfilled that obligation; and all those who could be there for a vote voted in favor of the nominations.

I did not have an opportunity to be here earlier this afternoon. I was conducting a hearing. However, I have not heard of any testimony or any facts that have been given against these nominees in any way. I always assume that Senators have good reasons, but I do not believe there has been anything of substance to justify just scratching out everything that the Armed Services Committee has done unanimously with respect to the nominations, without any additional testimony or any new facts, and just say, "Well, let's start over."

If there were any reason or any consideration of that kind, it could have been brought forth. I assume it would have been brought forth. Otherwise, I think there is nothing left to do within reason except to confirm these nominations.

With the law we have on the subject and the new law with respect to the Panama Canal, as well as the Senate rules, this matter is still within the jurisdiction of the Senate Armed Services Committee. I do not believe there are any allegations to the contrary. I have not heard of anything of that kind. We thought we had jurisdiction. If we are mistaken about that, it should be pointed out clearly.

I thank the Senate for its consideration. I yield the floor, and I hope I will be able to get the floor again within the limited time.

● Mr. DOLE. Mr. President, we are today voting on the Commissioners who will govern the Panama Canal until we finally lose control of that artery in less than two decades. Many of us in this body including the Senator from Kansas were unconvinced of the wisdom of the transfer and voted accordingly. The Senator hopes he was wrong, but events dictate otherwise.

But enough problems have already arisen in the management of the canal under General McAuliffe to make one uneasy about the future management of the waterway. Recently General McAuliffe created, against preexisting water debt owing from Panama to the United States, toll revenues which would have otherwise gone to Panama. One can only hope that the Commissioners will continue to support such fiscally proper actions.

We already witness Panama's repudiation of parts of both the Senate conditions added to the treaty as conditions of its passage in this body. Even some Panamanian sources claim that the treaty was so radically changed after the national plebiscite that it is not legally binding on Panama.

Against such a background of turmoil and unsettled issues, we can only reiterate our deep concern that these Commissioners shall maintain the real interests of the United States during their terms of office.

Mr. President, it is the hope of the Senator from Kansas that if these nominees before us this afternoon are confirmed they will adhere to the policy adopted by General McAuliffe. To some, the issue of an unpaid water bill may be trivial, but the United States must once and for all take a stand in our best interests. The pattern of the Panama Canal treaties is not unlike other Carter foreign policy initiatives.

The United States over the past 3½ years has consistently adopted policies of weakness and appeasement and those policies have not produced any positive results. The Panama Canal issue stands as a symptom of just how terribly the current administration has failed the American people. The costs of these ill-conceived, ill-defined, and incoherent policies in terms of our national security interests and the millions of taxpayers' dollars spent in increased toll costs and outright payments authorized in the implementing legislation serve to highlight the gross misrepresentations made by the administration to the Congress and the American people.●

The PRESIDING OFFICER. The hour of 3:45 having arrived, the Senator from North Carolina is recognized for the purpose of offering his motion.

Mr. HELMS. Mr. President, I move that the nominations be committed to the Foreign Relations Committee, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

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

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

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators present who wish to vote?

The result was announced—yeas 26, nays 66, as follows:

[Rollcall Vote No. 73 Ex.]

YEAS—26

Armstrong	Heinz	Roth
Baker	Helms	Schmitt
Belmon	Humphrey	Schweiker
Cochran	Jepsen	Stevens
Cohen	Kassebaum	Thurmond
Dole	Lugar	Tower
Domenici	McClure	Wallop
Garn	Percy	Warner
Hatch	Pressler	

NAYS—66

Baucus	Glenn	Nunn
Bayh	Hart	Packwood
Bentsen	Hayakawa	Pell
Biden	Heflin	Proxmire
Boren	Hollings	Pryor
Boschwitz	Huddleston	Randolph
Bradley	Inouye	Ribicoff
Bumpers	Jackson	Riegle
Burdick	Javits	Sarbanes
Byrd, Harry F., Jr.	Johnston	Sasser
Byrd, Robert C.	Leahy	Simpson
Cannon	Levin	Stafford
Chafee	Long	Stennis
Chiles	Magnuson	Stevenson
Cranston	Mathias	Stone
Culver	Matsunaga	Talmadge
Danforth	McGovern	Tsongas
DeConcini	Melcher	Weicker
Durenberger	Metzenbaum	Williams
Durkin	Morgan	Young
Eagleton	Moynihan	Zorinsky
Exon	Muskie	
	Nelson	

NOT VOTING—8

Church	Gravel	Laxalt
Ford	Hatfield	Stewart
Goldwater	Kennedy	

So the motion to commit was rejected.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nominations of 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; and William Sidell, of California, to be members of the Board of the Panama Canal Commission en bloc?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky, (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts, (Mr. KENNEDY) and the Senator from Alabama (Mr. STEWART) are necessarily absent.

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

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

I further announce that the Senator from Oregon (Mr. HATFIELD), is absent due to illness.

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

The result was announced—yeas 77, nays 15, as follows:

[Rollcall Vote No. 74 Ex.]

YEAS—77

Baker	Biden	Burdick
Baucus	Boren	Byrd, Harry F., Jr.
Bayh	Boschwitz	Byrd, Robert C.
Bellmon	Bradley	Cannon
Bentsen	Bumpers	

Chafee	Jackson	Pressler
Chiles	Javits	Proxmire
Cochran	Johnston	Pryor
Cohen	Kassebaum	Randolph
Cranston	Leahy	Ribicoff
Culver	Levin	Riegle
Danforth	Long	Sarbanes
DeConcini	Magnuson	Sasser
Domenici	Mathias	Schmitt
Durenberger	Matsunaga	Simpson
Durkin	McGovern	Stafford
Eagleton	Melcher	Stennis
Exon	Metzenbaum	Stevenson
Glenn	Morgan	Stone
Hart	Moynihan	Talmadge
Hayakawa	Muskie	Tsongas
Heflin	Nelson	Warner
Heinz	Nunn	Weicker
Hollings	Packwood	Williams
Huddleston	Pell	Young
Inouye	Percy	Zorinsky

NAYS—15

Armstrong	Humphrey	Schweiker
Dole	Jepsen	Stevens
Garn	Lugar	Thurmond
Hatch	McClure	Tower
Helms	Roth	Wallop

NOT VOTING—8

Church	Gravel	Laxalt
Ford	Hatfield	Stewart
Goldwater	Kennedy	

So the nominations were confirmed en bloc.

Mr. LEVIN. Mr. President, I move to reconsider the vote en bloc by which the nominations were confirmed.

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that the President of the United States be notified of the confirmation of the nominees.

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

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, while the Senate is in executive session, I ask unanimous consent that the Senate proceed to the consideration of the remaining nominations on page 2 of the Executive Calendar, beginning with "(New Reports)."

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. The items identified by the majority leader have been cleared on our side. They consist of nominations for the ICC, the Federal Maritime Commission, the National Transportation Safety Board, and the Department of Education. We have no objection to their consideration and confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

I ask unanimous consent that the nominees be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominees are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominees were considered and confirmed en bloc.

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

The motion to lay on the table was agreed to.

The nominations considered and confirmed en bloc are as follows:

INTERSTATE COMMERCE COMMISSION

Reginald E. Gilliam, Jr., of Virginia, to be a member of the Interstate Commerce Commission.

FEDERAL MARITIME COMMISSION

Peter N. Teige, of California, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1980.

Peter N. Teige, of California, to be a Federal Maritime Commissioner for the term of 5 years expiring June 30, 1985.

NATIONAL TRANSPORTATION SAFETY BOARD

James B. King, of Massachusetts, to be chairman of the National Transportation Safety Board.

DEPARTMENT OF EDUCATION

Betsy Levin, of North Carolina, to be general counsel, Department of Education.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of the nominees.

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

REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from an amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Executive C, 96th Congress, 2d session) and the International Natural Rubber Agreement, 1979 (Executive D, 96th Congress, 2d session), both of which were transmitted to the Senate today by the President of the United States.

I ask that the treaties be considered as having been read the first time, that they be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, an Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973. The Amendment will provide a legal basis for Parties to the Convention to provide it with necessary financial support. By helping to place the financing of the Convention on International Trade in Endangered Species of Wild Fauna and Flora on a sound and permanent basis, the Amendment will strengthen its effectiveness. The report on the Amendment by the Department of State is enclosed for the information of the Senate.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora provides for the control and monitoring of international trade in species endangered, or likely to be endangered, by extinction. The Convention on International Trade in Endangered Species of Wild Fauna and Flora text does not, however, explicitly provide for the funding of Convention on International Trade in Endangered Species of Wild Fauna and Flora Secretariat activities by its Parties. So far the United Nations Environment Program has provided this support. However, the United Nations Environment Program has decided to begin to decrease its support in 1980 and to terminate it by the end of 1983. In March 1979 the Convention on International Trade in Endangered Species of Wild Fauna and Flora Parties adopted interim financial regulations under which the Parties would begin to provide the necessary support. But some Parties require an Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora text providing explicit authority for Party funding in order to give them a legal basis for making contributions under the new financial regulations. Consequently, the Parties held an extraordinary meeting in Bonn on June 22, 1979, and adopted the necessary Amendment. Under the Amendment, the Parties' authority to adopt financial provisions is made explicit by adding the words "and adopt financial provisions" to Article XI 3(a), which deals with the functions of the Conference of the Parties.

Under this Amendment and the interim financial regulations the United States could make voluntary contributions to help support the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

I urge the Senate to act favorably on this Amendment at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *April 2, 1980.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the International Natural Rubber Agreement, 1979, adopted at Geneva October 5, 1979. The Agreement was signed on behalf of the United States of America on January 8, 1980. The report of the Department of State is enclosed for the information of the Senate.

The Agreement seeks to stabilize natural rubber prices without disturbing long-term market trends and to foster increased natural rubber supplies at reasonable prices. Natural rubber prices have traditionally displayed considerable instability, with strong rises—notably in 1951, 1955, 1960 and 1973–74—followed by sharp and sudden declines. This instability has not only destabilized producers' incomes and complicated national planning for the developing exporting countries, it has also contributed to inflation in industrial countries. In addition, it has discouraged needed long-term investments in natural rubber production. This is particularly important to the United States, which as the world's largest consumer of natural rubber has a substantial interest in helping to assure adequate future supplies of this commodity.

The Agreement provides for the establishment of an international buffer stock of 550,000 metric tons of natural rubber to be the instrument for price stabiliza-

tion. The stock will be used to defend a price range and insure consistency with longer term market conditions. The financing of the buffer stock will be shared equally between importing and exporting members. Each government's share will depend upon its votes in the Organization as determined by net exports or imports. The share of the United States will be between 12.5 and 15.5 percent of the total, depending on the number of governments that become parties to the Agreement. To meet the financial obligations arising from our membership, $88 million has been included in the FY 1981 budget. The Agreement is to become effective on or after October 1, 1980, when governments accounting for sufficient net exports and net imports have ratified the Agreement or agreed to apply it provisionally. It will remain in force for five years from the date of the Agreement's provisional or definitive entry into force (whichever occurs first), but may be terminated earlier or extended for up to two more years. In addition, provisional operation of the Agreement without subsequent definitive entry into force is limited to 18 months. Upon termination of the Agreement, the United States' contribution and share of the Agreement's assets will be refunded within a period not to exceed three years.

The Agreement should provide substantial benefits for consumers of natural rubber. The buffer stock is sufficiently large to provide adequate protection for both the maximum and minimum levels of the price range, thereby providing balanced protection for all members. Exporting members will attempt to insure continuous availability of natural rubber supplies to consumers, and the Council may make recommendations to members on ways to avert potential shortages. Finally, by moderating price increases during periods of high demand, the buffer stock could also help to reduce inflationary pressure on the prices of manufactured rubber products.

The Agreement is consistent with our broad foreign policy objectives. It demonstrates our willingness to negotiate commodity agreements where practicable and in the interest of industrialized and developing countries. It constitutes a significant achievement in the North-South dialogue. It will also strengthen our relations with ASEAN, since natural rubber is particularly important to four of its members—Malaysia, Indonesia, Thailand and Singapore—which account collectively for nearly 90 percent of the world trade in natural rubber.

For all of these reasons, I urge the Senate to give this Agreement prompt consideration and its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *April 2, 1980.*

LEGISLATIVE SESSION

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

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

SALE OF OBSOLETE VESSELS TO COAST LINE CO.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4088.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4088) to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

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

The Senate proceeded to consider the bill.

AMENDMENT NO. 1688

(Purpose: An amendment offered as a substitute for H.R. 4088)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment by Mr. MAGNUSON, on behalf of Mr. MAGNUSON, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia, Mr. ROBERT C. BYRD, for the Senator from Washington (Mr. MAGNUSON) proposes an amendment numbered 1688:

H.R. 4088 is amended by striking all after the enacting clause and inserting in lieu thereof the following:

Notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within two years after the date of enactment of this Act (A) to sell, subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purpose of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries or the domestic commerce of the United States, after due advertisement and upon competitive bids, to the highest bidder: *Provided,* That the Secretary shall not sell the vessels for less than their scrap value in the domestic market, and (B) to allow obsolete vessels previously sold from the reserve fleet to be converted and operated in the fisheries of the United States: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) if the vessels are scrapped, they shall be scrapped in the domestic market; and (4) purchasers must be citizens of the United States as defined in section 2 of the Shipping Act of 1916, as amended (46 U.S.C. 802).

● Mr. MAGNUSON. Mr. President, this amendment to H.R. 4088 (amendment No. 1688) is very simple and is consistent with prior Senate action during this Congress on these obsolete vessels.

Mr. President, there are presently seven vessels in the Government's obsolete fleet which are capable of conversion and use in the fisheries. The bill, H.R. 4088, deals with only two of these vessels. It provides for the open, competitive bidding on these vessels—which is the proper manner for disposing of them. However, the other five vessels should also be dealt with in this manner and in the same bill. The Senate in its passage of S. 1656, the National Fishery Development Act, during the last session agreed and provided for competitive bidding on all seven vessels. This is the proper approach. My amendment merely deals with all seven of these vessels the same way the Senate did earlier. My amendment does, however, acknowledge the House version's requirements regarding the citizenship requirements of potential purchasers, and the use of formerly purchased obsolete vessels in the fisheries.

Mr. President, the four conditions of this amendment are intended to apply to the vessels designated in both paragraphs (A) and (B). They are intended to insure that conversion work be performed in the United States; that the vessels be documented and operated under the laws of the United States; that if and when such vessels are scrapped, they be scrapped in the United States; and that purchasers be citizens of the United States as defined in the Shipping Act.

Mr. President, this is a simple and yet very sound amendment and I urge my colleagues to support it.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time and passed.

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

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

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 1 hour and that Senators may speak therein.

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

MARYLANDER WINS BRITISH GRAND NATIONAL

Mr. MATHIAS. Mr. President, last Saturday, the world was again reminded that Maryland produces more than its share of fast horses and courageous riders.

Before an estimated television audience of one-half billion people, Charlie Fenwick of Baltimore County guided Ben Nevis II, his 12-year-old gelding, to a 20-length victory in the British Grand National steeplechase race. Only 4 of

the 30 starters finished the course that runs for 4½ miles and includes 30 fences.

This was the second attempt at the Grand National for Charlie Fenwick and Ben Nevis. Last year, they were thwarted in their bid by interference from riderless horses and could not complete the race.

But, this year, they were ready. In 1977 and 1978, they served notice of their prowess by winning the tough, demanding Maryland Hunt Cup. Though Ben Nevis II is English-bred, it took Maryland pastures to make a champion of him.

Mr. Fenwick was the first American to win the British Grand National race since 1965, when Tommy Smith, another native Marylander, took the honors on Jay Trump.

Maryland can now lay claim to having today's two greatest race horses, Ben Nevis II and the Maryland-owned and trained Spectacular B'd, who has dominated flat racing for the past 2 years.

Mr. President, I ask unanimous consent that a story by Bob Maisel of the Baltimore Sun and an editorial by that newspaper commending Charlie Fenwick and Ben Nevis II for their achievement, be printed in the RECORD at this time.

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

ANOTHER MARYLAND HORSE MAKES HIS MARK

(By Bob Maisel)

Maryland has always been an important state as far as making racing news is concerned, but maybe never more than today.

For the last two years, Spectacular Bid, owned by the Harry Meyerhoff family, of Easton, and trained by Bud Delp, of Laurel, has been at or near the top of the world as far as flat racing is concerned. And yesterday, Ben Nevis II, owned by Redmond Stewart, Jr., of Worthington Valley, and ridden by his son-law-law, Charlie Fenwick, won the British Grand National, most prestigious steeplechase event in the world.

So, until somebody else proves otherwise, Maryland now has the best flat runner and the best steeplechaser to brag about.

The victory by Ben Nevis and Fenwick yesterday duplicated the feat of Tommy Smith and his horse, Jay Trump, 15 years ago, when they teamed to win the Maryland Hunt Cup two years in a row, then shipped to England to win the Grand National in 1965.

Ben Nevis's victory completes a rather amazing story. Stewart, over whose property our Grand National is run every April, bought the 12-year-old gelding sight unseen five years ago while on a hunting trip in the north of England. Ben Nevis had never won in an undistinguished career over the hurdles and was considered such a screwball he really wasn't suited for either pleasure riding or hunting.

But when shipped to this country, he quickly took to our style of timber racing as though it had been designed for him. In fact, he was unbeatable, with 12 starts and 12 wins, two of them in the 1977 and 1978 Maryland Hunt Cups. When he knocked a whopping 8 2/5 seconds off the old record, with a clocking of 8:33 3/5 in the '78 Maryland Hunt, recognized as the toughest timber race in the world, Stewart and Fenwick decided to follow in the footsteps of Jay Trump and shoot for the Grand National.

In fact, Fenwick was really taking the path his grandfather had tried 52 years ago. After winning the 1926 Maryland Hunt with Billy Barton, Fenwick's grandfather, Howard Bruce, shipped his horse to England and finished second in the Grand National.

Fenwick didn't fare that well in his first Grand National appearance with Ben Nevis last year. The gelding was jumping well enough, but at the 15th fence, called The Chair, two riderless horses caused a traffic jam and eliminated four others, including Ben Nevis.

Fenwick, for years the leading amateur steeplechase rider in this country and winner of the last three Maryland Hunt Cups, was serious enough about his attempt to win the Grand National last year that he moved his family to England and lived there for 4½ months while preparing himself and Ben Nevis for the race.

The British apparently do not take too kindly to an outlander trying to make off with their Grand National. At the time, one reporter referred to Fenwick as "a stealthy invader of our shores," while another described Ben Nevis as "a failed point-to-pointer, who is back in England attempting to win our most famous race."

Although Ben Nevis was wiped out by the loose horses last year, he performed well enough to pursuade Stewart and Fenwick to leave him in England and point for the 1980 Grand National. This time, Fenwick, the owner of Liberty Pontiac in Randallstown, has been commuting to England to ride Ben Nevis in prep races. And although his mount has been improving with each start, he still had never won in Europe in 12 starts coming up to yesterday.

Apparently, the adjustment from our timber fences, which must be cleared in a more vertical jump, to the higher brush fences which can be skimmed through, was not an easy one for Ben Nevis. But anybody who had seen him jump so flawlessly and run so effortlessly for the 4 miles of the Maryland Hunt Cup had to give him a chance to win the Grand National.

Even so, he went off at 40–1, yesterday, after closing at 12–1 last year. "I don't think Charlie and his friends were as optimistic this year as they were last time," said a close friend of Fenwick's, who called yesterday to give me the good news as soon as he had heard about it. "I got the impression his family and the entire entourage went over more to lend moral support than to see him win. After all, Ben Nevis had never won in England before. He sure picked the right time to do it, though, didn't he?"

That he did. With $96,000 to the winner, 75,000 people at the course, another 500 million watching on the worldwide television, and with all the prestige that goes with the Grand National, Ben Nevis and Fenwick should become real celebrities when they return to Maryland. And if Spectacular Bid and Ben Nevis ever get to our state at the same time again one of these days, some race track should jump at the opportunity to have them parade through the stretch together.

Not a bad pair to have represent us, right?

JUMPERS

For the second time, a Baltimore county horse-and-rider combination has shown that if you're good enough to win the Maryland Hunt Cup, you can win the world's most famous and punishing steeplechase, the Grand National at Aintree in England.

Cheers to the persevering Charlie Fenwick and his mount, Ben Nevis (or Ben Nevis II, as he is called in this country). They came back, a 40-to-1 shot, to win the race that thwarted them last year, after a series of winless prep races, duplicating the triumph of Tommy Smith on Jay Trump 15 years ago.

The victory was especially sweet for the 12-year-old equine member of the partnership, an English-bred of little distinction when brought to this country in 1974. It suggests that Baltimore county timber racing is as good as its partisans insist. And if these are comparatively small-scale hometown spectacles, Saturday's race was seen by an estimated *half-billion* televiewers worldwide. That's recognition.

LINCOLN MEMORIAL

Mr. MATHIAS. Mr. President, every Sunday for a number of weeks past, the Outlook Section of the Washington Post has had a very special attraction for those who love Washington and its monuments. That attraction has been a series of poems about Washington landmarks by Alfred Friendly, former managing editor of the Post, a writer of great distinction and a human being endowed with more than ordinary powers of discernment.

I have enjoyed each of the poems in this series enormously. In fact, I hope they will be collected together in a special edition. But one of them appealed to me particularly. It was the final poem in this monumental sequence—Lincoln Memorial.

I admit to a pro-Lincoln and a pro-Lincoln Memorial bias. But it seems to me that even the most impartial reader will discover in Mr. Friendly's three dense stanzas the quintessence of man and monument. So that my colleagues may judge this for themselves, I ask unanimous consent that Lincoln Memorial, a poem by Alfred Friendly, be printed in the RECORD at this point.

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

LINCOLN MEMORIAL

Grotesque he was, ungainly,
Head bent; here stalked distortion.
His shrine all harmony,
Perfection in proportion.

Embattled, chivvied, harassed,
Nagged at without surcease.
His temple tells of quiet,
Serenity and peace.

His life bedeviled, torn,
In memory made whole.
Where else has stone more surely
Discerned, disclosed the soul?

THE HEALTH INCENTIVES REFORM ACT

Mr. DURENBERGER. Mr. President, 2 weeks ago the Subcommittee on Health of the Senate Committee on Finance conducted 2 days of hearings on S. 1968, the Health Incentives Reform Act.

It was appropriate that these hearings were conducted at a time when the Nation's focus is on inflation and our economic ills. The theme that was sounded time and again throughout the 2 days of hearings was that providing incentives for competition in health care is the best way to hold down costs. The health care delivery system must be reformed before it can be expanded through Government-subsidized coverage.

More Government regulation of the health care industry offers little oppor-

tunity for reform of the system, according to witnesses ranging from Alfred Kahn to private insurers. Instead, the regulatory approach will institutionalize our past mistakes and assure a cumbersome system of health care that works only for the wealthy or for those whose health care coverage is subsidized.

The most eloquent speaker on competition in health care was my distinguished colleague from Oklahoma, HENRY BELLMON. Senator BELLMON spoke with not only a deep interest and concern for reforming health care, but, as ranking minority member of the Senate Budget Committee, an understanding of the role of health care costs in the economy.

Mr. President, I ask unanimous consent that Senator BELLMON's testimony before the Finance Subcommittee on Health be included in today's RECORD.

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

STATEMENT BY SENATOR HENRY BELLMON

The health care system in the United States is under constant criticism because it is too expensive and renders inadequate or inappropriate care to many people. Government spending for the Medicare and Medicaid programs is growing rapidly.

In 1978, total health care outlays by all payors were $192.4 billion. This was the equivalent of $863 for every person in this country. During fiscal year 1980, health care outlays will be about $230 billion or $1,000 per person. Health care costs have been rising at an annual rate of 12–15% and are projected to continue doing so.

Government spending for Medicare and Medicaid has doubled every five years since the programs began in 1966 and will reach $65 billion in fiscal year 1981. Clearly these programs have helped many low-income, elderly, and disabled people to obtain needed health care they would otherwise have been unable to afford. But it is also clear that pumping out huge amounts of Federal dollars, on essentially an open-ended basis, has helped cause rapid inflation in health care prices. Prior to the initiation of medicare and medicaid in the mid-1960's, inflation in the medical care sector was consistently less than in the rest of the economy. During the past five years, inflation in medical services has exceeded the general price rise by an average of nearly two percentage points per year.

Despite years of hand-wringing about inflation in health care costs, there has as yet been no effective large-scale action to control health care expenditures. Current federal policies and regulations encourage the use of high-cost institutional care rather than prevention, low-cost in-home care and outpatient care. Regulations adopted for the purpose of controlling health care costs have resulted in extraordinary requirements for completing forms and maintaining records. Regulations which were intended to insure that the poor, elderly, and retarded receive quality care in a safe environment have sometimes had counter-productive effects on those providing quality care at low cost. On the other hand, the failure to enforce regulations evenhandedly has resulted in less than adequate care for many of our most defenseless citizens. I assume members of this Committee have heard from state officials, as I have, that the more they challenge Federal policies and actions, the more they seem to be the target of Federal oversight and special assessments.

In short, our track record with the regulatory approach raises serious doubts that we can ever hope to rely on increased regulations or on improved federal management of medicare and medicaid as our primary approaches for controlling costs and encouraging appropriate care in the field of health. Instead, we need a clear break with the past and new federal policies in both the tax and health program fields that will help assure adequate care for all our citizens at reasonable cost.

It is unfortunate that Congress has not reported or passed any legislation which would begin to reform the system, reduce costs, or limit the regulatory burden on providers and consumers of health care services.

Considering the problems both in our economy and in the federal budget, we need a bill which will begin to change the manner in which the health system works, slow the cost increases, and decrease the regulatory burden of government intervention in the health care system. The Schweiker bill (S. 1590), the Durenberger bill (S. 1968), the Ullman bill (H.R. 5740), and the Martin Bill (H.R. 6405) are legislative initiatives which offer substantial progress toward these objectives. All of these bills are characterized as "pro-competitive"; that is, they stimulate competition in the health care system.

The four proposals are characterized by several common elements, even though the details vary and each proposal does not contain every element. These common elements are:

1. Employers with a minimum number of employees would be required to offer a choice of health insurance plans, one of which would be a low cost option;

2. Employees who chose the low cost option would receive, in direct payments or in some other fringe benefit, a percentage of the difference between the cost of that option and of the high cost option;

3. Only payments made to health insurance plans which conform with the standards set by the legislation would be tax-deductible business expenses for the employer.

There are other elements in the bills which seek to introduce greater competitive forces into the medicare and medicaid programs and to expand the utilization of health maintenance organizations. More enlightened Federal policies in these areas are also urgently needed. If the Federal Government is to encourage, through changes in tax policies, greater competition among insurers and health care providers, and more reliance on low-cost forms of care it certainly must do the same thing in the medicare and medicaid programs which are directly funded with Federal dollars.

I am a co-sponsor of the Schweiker bill, but I urge the Finance Committee to put together a bill which adopts the best features of all four proposals and bring it to the Senate Floor. The adoption this year of such a bill would at last put us on the road to a sensible national policy on health care financing. I recognize that 1981 will be a tight budgetary year, but I believe the problems in our health care system are so severe that we must proceed as rapidly as we can to institute fundamental reforms of the types proposed in these bills. I am very encouraged that all of these bills would apparently save substantial sums over the long run, if we were to drop the catastrophic benefit features.

In my view it would be a serious error to enact, in advance of fundamental reforms in the health care financing system, a so-called catastrophic benefits program. The introduction of such a program would undoubtably fuel a new surge of inflation in health care costs. It would certainly shift increased numbers of patients into high-cost hospital beds and out of nursing homes and home care.

Before we adopt a catastrophic benefits plan, we simply must introduce stronger competitive forces and greater incentives for low-cost alternatives and other protections against unnecessary use of high technology services. In other words, I would personally oppose a catastrophic benefits plan this year unless it is packaged with changes of the type proposed in the Schweiker, Ullman, Durenberger, and Martin bills, and unless all the changes were phased in gradually over a period of several years so as to minimize inflationary effects.

I discussed briefly earlier in my statement some concerns about current federal regulatory policies and practices. I would now like to call the committee's attention to one example in which federal regulation seems to be working well. I refer to the Oklahoma Utilization Review System (OURS), which I believe could serve as a national model for one kind of reform needed before we launch a catastrophic benefits program. OURS has substituted a system of retrospective review of claims for the Professional Standards Review Organization (PSRO) system of concurrent review of patient care. Individual hospital data are compared to established standards of performance and monitoring attention is focused on those hospitals which fail to meet the standards. Recently the General Accounting Office (GAO) completed a review of OURS. While GAO identified some problems with OURS' data, GAO's own data showed that during the evaluation period,

The cost of inpatient days of care for medicare and medicaid eligible were reduced by the equivalent of more than $11 million;

For every $1 spent on OURS, $4.45 was saved. This compares favorably to the national Professional Standards Review Organization (PSRO) cost-benefit ratio of $1.10 savings for every $1 spent.

I am submitting the remainder of my statement for the record. It describes some basic aspects of the health care system and the effects of competition in two geographical areas. This experience suggests better ways to structure the health care system and the federal intervention in that system. There are of course no guarantees that such an approach will work effectively on a national scale. We do know, however, that our traditional methods of financing and regulating in the health care area have not been very successful. The Durenberger, Schweiker, Ullman and Martin bills represent a good beginning. I look forward to the opportunity to help the Finance Committee secure Senate enactment of an appropriate health care financing bill.

ATTACHMENT TO STATEMENT BY SENATOR HENRY BELLMON

Let me turn now to some background information that I believe will help the Committee keep the proper perspective on the health care financing questions. Two aspects of the health care system point up the critical need for competition. The first is the absence of any clear relationship between the need for health services, their utilization, and health expenditures. The second is the degree to which the reimbursement systems, which are used by private insurers and the medicare and medicaid programs, are inflationary and biased toward use of the institutional services.

NATURE OF THE HEALTH CARE MARKETPLACE

Wennburg, in a paper published by DHEW in 1977, documented the variability in the utilization of health care services among the five largest hospital service areas in the state of Maine.

Table 1 shows the hospital utilization for these areas. Patient days of care vary from 831 days per 1,000 persons per year in Area V to 1,625 days in Area JV. Area IV has the highest rate of hospitalization, most patient days, highest per capita expenditures, the

most available beds and a high rate of elective surgical procedures, especially tonsillectomy and hemorrhoidectomy.

Table 2 compares the per capita rates of hospitalization expenditures for nine common surgical procedures among the 13 largest Maine hospital service areas.

There are no indications that the populations receiving the highest levels of care, as reflected in Tables 1 and 2, had any greater need for the high level of medical care they received. Variance in utilization rates are dependent on factors other than the morbidity of the population. Residents of those areas served by proportionately more surgeons receive more surgery and have higher admission rates to hospitals.[1]

In another report, Wennberg summarizes the conclusions, based on work in Vermont, in the following terms:

Insurance is viewed as a risk-pooling device, as a hedge against the randomness of costly illness. It is assumed that once contact is made with the system, the care provided is generally of value and more or less similar for the same illness.

The distribution of insurance benefits from both public and private markets among Vermont hospital service areas illustrates what is wrong with this assumption. Across neighboring Vermont areas, equal initiating contact for episodes of illness with the system occurs among the elderly, among the poor and among everyone else. Yet contact among these apparently similar cohorts of people results in variable applications of health care technology and is followed by varying per capita expenditures and reimbursements.

The case of tonsillectomy illustrates this problem.

Children of the different Vermont areas contact their physicians at similar rates for upper respiratory infections, but the percent of children within an area who receive tonsillectomy varies from 8 percent to 63 percent. It is not clear that children are healthier for the operative experience in the high areas, but who pays for whose tonsillectomy is directly seen. For most examples of public and private insurance available in Vermont markets, each subscriber pays a similar price for similar insurance, without regard to place of residence. A fraction of the premium is insurance against the random illness that leads to tonsillectomy. But, it turns out, the probability of tonsillectomy is random only in the sense that place of residence is random; estimated annual per capita expenditure for tonsillectomy in Vermont (1969–1970) varied from $.63 to $5.69. Rather than differences in illness rates, essentially external or exogenous factors, the vagaries of location and professional preferences for therapy determine that people living in the low-use area subsidize the tonsillectomies consumed by those in the high cost area.[2]

In the May 10, 1978 Wall Street Journal, the following examples of corporate efforts to control this variability were presented:

Rockwell International has computerized its quarterly "trend report" to spot unusual doctor or hospital bills. Not long ago, the report showed that one physician had done 30 of the 100 operations performed on one plant's employes that quarter. Every one of the 30 was a bronchoscopy, an exploratory lung operation.

"There shouldn't have been that many people with lung problems," says Edwin McManus, a Rockwell staff vice president. A Rockwell insurance consultant visited the doctor, who owned the local profit-making hospital. The consultant suggested that the physician perform bronchoscopies only when they were "absolutely necessary." The result? "All this bronchoscopy activity was brought to a stop," Mr. McManus reports.

Motorola Inc. helped set up and finance a hospital-admissions program in Phoenix, Ariz., that is saving it more than $800,000 annually in avoided or reduced hospitalization for its 43,000 Phoenix-area employees and their families.

A most blatant example of the bias toward use of institutional services caused by health insurance was outlined in Time, May 28, 1979:

Some insurance practices operate directly to drive up costs. Many insurance companies will pay for lab tests only if they are done in a hospital on a supposedly sick patient. The result is to encourage hospitalization of untold thousands of people who could be diagnosed and/or treated at far less cost in a doctor's office. Says one Houston physician: "Say a man in his late 30s to early 40s complains of chest pains. I tell him he needs a thorough physical. In the office my fee would be $45, the tests $250, for a total of $295. But I have to put the patient in the hospital, so his insurance will pay for it. Everything is so slow in the hospital, so figure he will be there three days. The cost increases from $295 to $900, but his insurance company will gladly pay for it."

Customary, prevailing and reasonable charge (CPR), also referred to as usual, customary and reasonable charge, reimbursement is the basic method for reimbursing for health services. In 1975 it was used by Medicare, twenty-four state Medicaid programs, Blue Shield—for about half its business, and by the larger commercial insurors.

Burney, Schieber, Blaxall and Gabel in the summer, 1979, Health Care Financing Review described the inflationary effect of CPR:

. . . CPR implicitly encourages physicians to raise their fees because the higher the rate of increase in fees this year, the higher the CPR screens next year.

Table 3 shows the CPR bias toward higher reimbursement of specialists from Medicare in those areas with more physicians per 100,000 population and with high per capita income. According to Burney et al.,

. . . to the extent that Medicare fees reflect private market patterns, existing physicians fee patterns may provide financial incentives for physicians to locate in high-income, physician-dense metropolitan areas.

When there is an opportunity to substitute office visits for outpatient treatment in a hospital or medical treatment for surgery, Burney et al. believe Medicare and Medicaid reimbursement encourage the higher cost, institutional care. They conclude,

. . . since Medicare and some Medicaid physician reimbursement methods are based on existing private market fee structures, they may only reflect fee patterns inherent in the overall health systems.

EFFECTS OF COMPETITION

Where competition has been introduced into the medical marketplace, health care costs have either decreased or risen less rapidly due to a significantly lower reliance on inpatient hospital care. Minneapolis and Hawaii are the two areas with the most experience with competition.

In the Twin Cities area of Minneapolis-St. Paul, Health Maintenance Organization (HMO) alternatives to the traditional health insurance options have been available since 1971. In 1978 with 12.7 percent of the Metropolitan population enrolled in HMO's, the following hospitalization data are available:

HOSPITALIZATION DAYS PER 1,000

	Metropolitan HMO average	Blue Cross/ Blue Shield	U.S. average
1976	494	906	
1977	517	884	1,183
1978	456	787	

According to Christianson and McClure in Competition in *The Delivery of Medical Care* (1978):

The actions of HMOs and fee-for-service provider in Minneapolis-St. Paul are consistent with the predictions of a competitive model in many respects. HMOs have attempted to increase enrollment by expanding accessibility, controlling costs, and engaging in price competition. The different HMO organizational forms which have developed give consumers a meaningful choice among products with different characteristics. Physicians have responded by offering their patients alternative prepaid arrangements and submitting to increased efforts to control their costs. The restrictiveness of these controls may be unprecedented in a physician sponsored (excluding group practice) HMO and attest to the strength of the competitive challenge of competing HMOs. Hospitals have willingly sought HMO business and in the process have been forced to become more conscious of their own costs. Blue Cross/Blue Shield has attempted to protect its market position by providing its customers with an HMO alternative, but private insurors have not developed mechanisms as yet which might significantly control their premium increases.

Enthoven in *Effects of the Payment Mechanism on the Health Care Delivery System* (edited by Roy, 1978) describes the situation in Hawaii in the following terms:

There is such a competition in a few places today, despite the many barriers to the development of cost-effective organized systems. Perhaps the best example is Hawaii where the Hawaii Medical Service Association (HMSA) insures about 64 percent of the nonmilitary population of the State, while the Kaiser-Permanente Medical Care Program serves about 16 percent of the population of Oahu. The effect is to divide the State into two competing provider groups. Most of the patients of a non-Kaiser doctor or hospital are likely to be covered by HMSA, which gives HMSA substantial power to influence charges, fees and utilization. Competition between the two groups is very keen. The result is effective cost control, and very low hospitalization rates in both groups.

Writing in the June 1, 1978 *New England Journal of Medicine* Enthoven focuses on the price and utilization bases for the competitive advantage enjoyed by pre-paid group practice plans:

Another large study, by Gaus, compared days in hospital and surgical admissions for Medicaid beneficiaries enrolled in eight prepaid-group practice plans with those of beneficiaries in matched control groups who got their care from fee-for-service providers. The group-practice beneficiaries averaged 340 days in the hospital and 24 surgical admissions per 100 persons per year, as compared to 888 days in the hospital and 50 surgical admissions per 1000 persons per year in the control groups. This study investigated prior health status as perceived by the beneficiaries and number of chronic conditions, and it found no statistically significant difference between the members of prepaid-group-practice plans and the control groups.

Considering the experience in the Twin Cities area and Hawaii, I believe Congress should move now to introduce more op-

[1] Wennburg, J. E., A. Gittelsohn, N. Shapiro health care delivery in Maine III evaluating the level of hospital performance. J. Maine Med. Assoc. 66(11) 298–306 November 1975.

[2] J. E. Wennberg, using localized, population-based data in evaluating planning problems in *Papers on the National Health Guidelines: The Priorities of Section 1502*, DHEW, 1977.

portunity for a market to develop in the health care system. There are no guarantees such an approach will work. We do know, however, that our traditional methods of legislating and regulating in the health care area have not been successful.

TABLE 1.—INDICATORS OF PERFORMANCE IN 5 LARGEST MAINE HOSPITAL SERVICE AREAS BY POPULATION DATA AND INSTITUTIONAL INDICATORS

	Population data (per 1,000 population)				Institutional indicators		
	Incidence of hospitalization [1]	Patient days of care [1]	Available beds [2]	Per capita expenditures [2]	Percent occupancy [2]	Average length of stay in days [1]	Annual bed turnover rate
Area I	145	1,104	4.1	$102	73	7.6	33
Area II	153	1,244	5.0	92	73	8.1	31
Area III	157	1,054	4.2	75	65	6.7	34
Area IV	235	1,625	5.7	109	72	7.0	39
Area V	127	831	3.8	72	72	6.6	32

[1] 1973 data (incidence rate is age-adjusted).
[2] 1971 data.

Source: Wennberg, J. E., A. Gittelsohn, N. Shapiro Health care delivery in Maine III evaluating the level of hospital performance, J. Maine Med. Assoc. 66(11), 298–306, November 1975.

TABLE 2.—PER CAPITA HOSPITALIZATION EXPENDITURES FOR 9 COMMON PROCEDURES IN AREAS WITH HIGHEST AND LOWEST INCIDENCE RATES, 13 LARGEST MAINE HOSPITAL SERVICE AREAS AND STATE AVERAGE, 1973

Procedure	High use area [1]	Low use area [1]	State average
Hysterectomy [2]	$6.78	$2.88	$4.30
Cholecystectomy	4.98	2.51	3.45
Prostatectomy	3.54	1.47	2.34
Tonsillectomy	4.55	.85	2.33
Hernia [3]	2.51	1.64	1.99
Dilation and curettage [2]	2.68	1.08	1.82
Appendectomy	1.99	.97	1.47
Hemorrhoidectomy	1.43	.23	.54
Varicose veins	.93	.30	.48
All 9 procedures	29.39	11.93	18.73

[1] Areas ranked independently on each procedure.
[2] For females only.
[3] For males only.

Source: Wennberg, J. E., A. Gittelsohn: Health care delivery in Maine I: Patterns of use of common surgical procedures, J. Maine Med. Assoc., 66:5, pp. 123–130 and 149.

TABLE 3.—MEAN AND RANGE FOR MEDICARE SPECIALIST FEE INDICES BY COUNTY PHYSICIAN POPULATION RATIO AND COUNTY PER CAPITA INCOME, 1975

	Number of counties	Medicare	
		Mean	Range
Physicians per 100,000 population (1973):			
Less than 24	314	85	71–126
25 to 74	1,747	85	70–126
75 to 124	704	82	70–132
125 to 174	182	102	71–154
175 to 224	70	113	75–154
225 to 299	25	110	77–154
300 and over	32	113	80–192
All counties	3,074	100	70–192
Per capita income (1970):			
Less than $2,499	628	83	70–103
$2,500 to $2,999	877	83	70–113
$3,000 to $3,499	874	87	70–117
$3,500 to $3,999	479	99	70–154
$4,000 to $4,999	153	100	75–154
$4,500 and over	63	121	75–192

Source: Medicare Carrier Survey, Intermediary Letter 74–19. June 1974.

PLAINFIELD HONORS CLAYTON S. BUXTON

Mr. LEAHY. Mr. President, I ask that the following quote from the Barre, Vt., Times-Argus be included in the RECORD:

PLAINFIELD HONORS BUXTON

(By Lucie Chase)

PLAINFIELD.—Plainfield's town meeting passed a resolution Tuesday honoring Clayton S. Buxton, who has served as moderator for 27 years, town auditor for 22 years and justice of the peace for the past six years.

Buxton was presented an engraved gavel and plaque and given a standing ovation.

Clayton "Babe' Buxton is well known to Vermonters for his service both to the State and to his community. It was extremely fitting that he was honored in the way the newspaper reported, and it was an honor to him that the resolution received great bipartisan support.

I have had the pleasure of knowing both Babe Buxton and his wife, Albas, during most of my life. I do want to take this opportunity, Mr. President, to note Plainfield's honor of Mr. Buxton in the CONGRESSIONAL RECORD.

OIL AND GAS LEASING

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Oregon (Mr. HATFIELD).

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

STATEMENT BY SENATOR HATFIELD

The Energy Committee will begin markup of onshore Federal oil and gas leasing legislation on April 16. At least three options will be placed before the Committee: the administration's bill S. 1637, a substitute amendment to be offered by Senator Bumpers, and a refinement of my bill, S. 2424.

The Department of the Interior's proposal, S. 1637, will receive little attention—and deservedly so. According to a March 14 GAO report (EMD–80–60), the bill "could very likely result in considerably less land under lease, delays in making lands available for leasing, and less incentive and opportunity for independent oil companies and others to continue their traditional role of searching out and exploring lands for prospective oil and gas." The GAO also concludes that the bill's objective is unclear: "the bill, in our view, seems to place more emphasis on recovery of fair market value than on production at a time when efforts to stimulate oil and gas production from domestic sources—and particularly from public lands—would seem a high priority."

A substitute to S. 1637 will be offered by Senator Bumpers which would require OCS type bidding for tracts and which establishes all competitive leasing, but then attempts to set restrictions on the Secretary's discretion to lease competitively. This rather odd assemblage of structures on competitive leasing would succeed only in entrenching a reluctant bureaucracy opposed to further leasing or, in the case of a Department prone to "full development," constructing a morass of procedures too detailed and cumbersome to foster oil and gas development in the West.

A leasing system which establishes an all competitive system may work very well in a State system, such as Oklahoma, where several million acres comprise the leasing universe. Virtually *any* leasing system can handle that magnitude of acreage. The Federal Government, however, has over 100 million acres now under lease and lands available for lease may total twice that amount. Acreages such as this require streamlined processes, and a competitive system simply cannot handle that level of activity. The result would certainly amount to less leasing and far less acreage under lease.

A more productive alternative will be proposed by myself and others during markup. Mr. President, the bill, S. 2424, has been refined somewhat and I ask that S. 2424 be modified and printed in the RECORD at this point along with my "Dear Colleague" letter of March 25, a section-by-section analysis of S. 2424 (as modified), a summary of provisions of the Bumpers substitute to S. 1637, and several questions which should be addressed concerning the Bumpers substitute to S. 1637.

The material follows:

S. 2424

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 "Federal Oil and Gas Leasing Amendments Act of 1980".

SEC. 2. Notwithstanding any other provision of law, lands which are set apart for military or naval purposes shall not be available for leasing under section 17 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 226), except on the basis of competitive bidding notwithstanding the fact that such lands are not within any known geologic structure of a producing oil or gas field.

SEC. 3. In the administration of the provisions of section 17 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 226), lands to be leased which are outside a known geologic structure of a producing oil or gas field shall be considered, for purposes of leasing under such section, to be within the exterior boundaries of a known geologic structure of a producing oil or gas field if such lands are located within a two section distance, or approximately two miles, of the exterior boundaries of such known structure.

SEC. 4. Section 17 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 226) is amended to read as follows:

"The Secretary shall issue a lease to the highest qualified bidder for each tract offered at a lease sale.".

SEC. 5. Action taken by the Secretary pursuant to lease procedures of sections 2, 3, and 4 of this Act and to section 17 of the Act referred to in those sections shall not be considered "major Federal actions" for purposes of implementing section 102 of the National Environmental Policy Act. Nothing in this subsection shall be construed as affecting the application of section 102 of the

National Environmental Policy Act to the issuance of a lease under section 17 of the Act of February 25, 1920, (30 U.S.C. 226).

SEC. 6. Section 30(a) of the Act of February 25, 1920 (30 U.S.C. 187a) is amended by striking the third sentence and inserting in lieu thereof "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublease or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment (1) of a separate zone or deposit under any lease or (2) containing an overriding royalty which exceeds limitations established by regulations; and, *Provided further,* That the Secretary may disapprove an assignment of a lease issued after the effective date of this Act of less than one hundred sixty acres, and the Secretary may require that the retained portion is also not less than one hundred sixty acres, and the Secretary may provide that the assignment size shall be determined by the well spacing requirement established by a State if that requirement is in excess of one hundred sixty acres.".

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., March 25, 1980.

DEAR COLLEAGUES: S. 2424 (to expand competitive oil and gas leasing in areas adjacent to producing fields and in military reservations such as Ft. Chaffee) will be modified somewhat and offered as a substitute to both the administration's bill (S. 1637) and to Senator Bumper's amendment.

As modified, my bill would eliminate "big ticket" tracts from noncompetitive leasing and, according to leasing experts in BLM, remove from the leasing lottery those tracts now subject to oil lease fraud. However, the bill would continue to promote exploration in unproven or wildcat areas, as the existing leasing system does, and avoid stifling exploration which would come through higher front end costs associated with an all competitive system.

Perhaps the most troublesome aspect of the Bumpers substitute amendment involves the implementation period for an all competitive approach—with its invitation for nominations and the need for completely revised regulations. Such a radical change in the leasing system would likely require years of rulemaking procedures, hearings, and bureaucratic reorganization. Since no noncompetitive leasing would be permitted under this approach, all leasing would cease during this two or more year hiatus.

Our energy vulnerability will simply not allow a shutdown of leasing in the newly productive Overthrust Belt. Clearly a less onerous alternative, and one provided for in my bill, would be to expand competitive leasing by simply adding to existing competitive leasing areas. A lengthy halt in leasing can be avoided. I ask for your support of S. 2424 as modified.

Warm regards.

Sincerely,

MARK O. HATFIELD,
Ranking Minority Member.

SECTION-BY-SECTION ANALYSIS OF S. 2424, AS MODIFIED

SEC. 2. Establishes leasing in military reservations (such as Ft. Chaffee) by competitive bid only. Eliminates "$1 per acre giveaways" in military reservations—a primary concern of Senators Bumpers and Bellmon last year.

SEC. 3. Extends existing competitive leasing areas by 2 sections, or about 2 miles. Approximately triples area subject to competitive leasing from 18 million acres to over 50 million acres. Promotes competition in areas of great interest by permitting only competitive leasing in areas surrounding producing fields. According to BLM, eliminates from leasing lottery areas subject to fraud and abuse. Retains noncompetitive, or first come, first serve, leasing in unproven, wildcat areas to promote exploration.

SEC. 4. Eliminates time consuming "fair market value" determinations for each tract by U.S. Geological Survey. Requires instead that highest qualified bid be accepted, implicitly stating that fair market value is whatever the market will bear.

SEC. 5. Ensures that neither program-wide nor regional environmental impact statements will be prepared, but leaves untouched the application of NEPA to individual lease issuance.

SEC. 6. Sets restrictions on lease assignments to eliminate problem of "40 acre merchants": Secretary may disapprove assignments of separate zones or those containing excessive overriding royalties; Secretary may disapprove assignments of less than 160 acres, may require the retained portion of the lease to be not less than 160 acres, and may require assignments larger than 160 acres patterned after a State's well spacing requirements.

SUMMARY OF PROVISIONS

(Bumpers substitute to S. 1637)

Leasing would be by competitive bid only using OCS type bidding systems.

Secretary must invite nominations of lands "available and suitable" for leasing. Nominated tracts must be offered for lease.

Lease sales must be held quarterly; tract goes to "highest responsible qualified bidder".

Maximum lease size increased from 640 acres to 5120 acres; leases shall have an initial term of 5 years (extension possible with submission of exploration plan and a finding by the Secretary).

Rentals increased to $2 per acre; advance minimum royalty set at $4 per acre.

640 acre restriction on lease assignments.

(Bellmon amendment to Bumpers substitute to S. 1637)

Establishes a small business set-aside of 30 percent of acreage offered for lease in each sale.

Tract size not to exceed 640 acres.

Small business nominations get preference in each sale.

QUESTIONS REGARDING THE BUMPERS SUBSTITUTE TO S. 1637

How much time would the Department need to fashion this proposal into an operating system? (All existing regulations would have to be scrapped. A new system would require rulemaking, hearings, and bureaucratic reorganization.) (The Congress passed an all competitive system for coal leasing in 1976, and leasing has yet to resume. Other onshore competitive leasing has been near zero over the last 10 years—e.g., phosphate, potash, sodium.)

Only about 350 out of 11,000 leases issued last year were leased competitively. How many years would it take Interior to increase competitive leases offered for sale under an all competitive approach?

Would not leased acreage decline rapidly with the old leases expiring and far fewer new leases issued? (GAO says greatly increased competitive leasing would have detrimental effects on companies' access to lands for exploration and may, over time, decrease production from Federal lands.)

Don't the increased rentals, front-end bidding, and larger size lease tracts mean the independents will get squeezed out in favor of the majors?

Won't exploration on Federal lands be diminished by the higher holding costs?

Would the proposal require tract selection and prioritization? (Competitive leasing usually requires this.)

Would Interior prepare regional EIS's on leasing? (DOI now prepares regional oil and gas EAR's, but regional EIS's are being prepared for coal leasing.)

How much additional administrative burden would be created with the requirement to submit an exploration plan and with a "finding" necessary by the Secretary to support a 5 year lease extension?

THE EMANCIPATION PROCLAMATION

Mr. DANFORTH. Mr. President, on January 1, 1863 President Abraham Lincoln signed the "Emancipation Proclamation" declaring that all slaves in the United States "are, and henceforth shall be, free." This proclamation is the cornerstone for all Americans, black and white, in our national struggle to insure equality under the law.

The Black Archives of Mid-America will bring this historic document to Kansas City, Mo. for 5 days this spring to give Americans throughout the Midwest an opportunity to see it and learn more about its significant impact. The exhibition will be May 14–18 at the William Rockhill Nelson Gallery of Art in Kansas City. This event will mark the first time ever that a black organization has sponsored an exhibit of the Proclamation. I salute the Black Archives of Mid-America for bringing the Emancipation Proclamation to Kansas City, and I urge people throughout the Midwest to take advantage of the opportunity to learn more about the meaning of this great document.

DR. AND MRS. THOMAS S. FIELD

Mr. DANFORTH. Mr. President, on April 11, 1980, civic, government and religious leaders will gather in Kansas City, Mo., to pay tribute to Dr. and Mrs. Thomas S. Field. At this time I would like to call the attention of the Senate to the remarkable contributions which the Fields have made to higher education in the Midwest. Dr. Field has served as President of William Jewell College for the past decade. When he assumed the presidency of this Baptist, liberal arts college in Liberty, Mo., he launched what he envisioned as a "Decade of Greatness." Through the tireless efforts of Dr. and Mrs. Field, the "Decade of Greatness" has indeed become a reality at William Jewell.

It has been my privilege to follow the progress of this college during the Field's tenure. Under Dr. Field's guiding hand, the college has experienced tremendous growth, both in student enrollment and in academic standards. The pattern of growth experienced by William Jewell College in the 1970's was not reflected by most small, private colleges during that time period. William Jewell College has long been known as the "Campus of Achievement," and under Dr. and Mrs. Field's leadership, the campus has experienced one of the finest decades of its history—which spans over 130 years.

On this occasion marking their retirement, it is my personal pleasure as a friend of the Field family to extend my congratulations and my sincere best wishes for the years ahead.

CRISIS IN CAMBODIA

Mr. DANFORTH. Mr. President, over the past few months our attention to matters of foreign affairs has been riveted on the plight of our hostages in Iran and the Soviet invasion of Afghanistan. During that period, a crisis in Cambodia which had seized the world's attention earlier, dropped from the front pages of our newspapers and from the nightly news programs. I would like today to redirect some of our attention to that tiny nation and its long-suffering people.

Let me start by reminding Senators of the situation that Senators SASSER, BAUCUS, and I witnessed last October. We arrived at the Thai-Cambodia border during the middle of the mass exodus of Khmer people from Cambodia into Thailand. Only the strongest had been able to get to the border, and most of those who made it were at death's door. Thousands died fleeing from a spreading famine and one more chapter in 10 years of war.

The toll in human lives and suffering has been staggering. It is estimated by some independent observers that Cambodia's population has been cut almost in half since 1969.

The people we saw were victims of malnutrition starvation; their bodies ravaged by disease. We walked among thousands of people lying on straw mats in open fields, their only protection from the elements being a small sheet of thin plastic strung up on sticks. The strong among them stood and stared blankly at passersby; as if in shock. The weak lay unmoving, lacking the strength even to walk a hundred yards for food and limited medical attention. The silence was eerie. People didn't talk; they moved like zombies, if at all; the children, many with stick-like legs and swollen bellies, didn't play; and the babies, shriveled up and very weak because their malnourished mothers were producing so little milk, did not cry. The presence of death was strong. The dying lay comatose, staring blankly into space as flies crawled unmolested across their faces. One knew that in a few days many of them would be taken from their place in the makeshift hospital to a mass grave at the edge of the encampment.

That was the situation last October. Things are different today. No longer are larger numbers of emaciated victims of starvation and disease arriving daily at the border. The situation inside Cambodia, along the border, and at the Khmer camps inside Thailand has stabilized and improved. People are getting food and some medical care. At two large holding centers in Thailand—Khao I Dang and Sakaeo—whole cities have emerged.

Khao I Dang is one of the largest Khmer cities in the world with a population of more than 100,000. It has a multiple-ward hospital and the largest Khmer school in the world with nearly 10,000 students. Former members of the Cambodian dance troupe and orchestra are working together to preserve historic, artistic, and cultural traditions.

What has made this dramatic change possible?

First and foremost is the extraordinary aid efforts by the international relief agencies and private voluntary organizations. They have worked inside Cambodia, on the Thai-Cambodia border, and inside Thailand to provide thousands of tons of food and medical supplies to the Khmer people. Every day, a veritable army of Khmer come to the Thai border from as far away as 250 miles to receive food which they will take back into Cambodia. They come on foot, on bicycle, and on oxcarts. The "landbridge" which Senators SASSER, BAUCUS, and I sought to create last October—a proposal that was turned down by the authorities inside Cambodia—has come to life in this extraordinary fashion.

The situation has also been aided by bilateral aid from Soviet bloc countries and the recent harvest which, though woefully small, did provide some food. Special recognition and credit must go to those volunteer workers of all ages from all over the world who have gone to the area to help—to treat the sick, to build shelters, to distribute food, to teach school, and to show in so many ways that the rest of the world cares.

The people of the world can be proud of their collective response to the situation in Cambodia. The American people deserve considerable credit for their own humanitarian response. The U.S. Government has been a major donor to the international effort, private citizens have given generously to the aid organizations, and many Americans are working with international aid teams in Thailand.

The Thai people and their government merit special recognition for their contributions to the success of the international effort. Former Prime Minister Kriangsak deserves continuing credit for his decision last fall to accept all Khmer refugees for temporary shelter inside Thailand. It is hoped that the new government led by General Prem will continue these policies until conditions permit the Khmer people to return to their homeland. Queen Sirikhit said recently that she expects her country to continue its policies toward the Khmer. In one other positive sign, Thailand last week granted an export license for the shipment of 15,000 tons of rice seed to Cambodia.

Does all of this mean the problems in Cambodia are solved, or are at least on the way to resolution? It does not. While we can be grateful that the truly desperate conditions of last fall have been ameliorated, we must not become complacent.

First of all, the record over the last 6 months leaves much room for improvement. Many people died unnecessarily because available food and medicine did not get where they were needed in time. Cambodian authorities continue to deny entry to the hundreds of trained medical personnel who have volunteered to serve inside Cambodia. International relief agency personnel are still not permitted to assist in food distribution inside Cambodia, and there are far too few even to provide adequate assurance that the food is reaching the neediest people. The administrative and logistical systems for distributing food are pitifully weak. There are still concerns that some food is finding its way into the wrong hands, but there is no proof of large-scale diversion.

We must be most concerned, however, about the fact that the current situation, though much improved over last fall, is quite fragile and threatens to worsen in the near future. Several problems pose real and serious threats to the current tenuous stability.

The international relief effort mounted last fall had a 6-month time horizon. It came to an end Monday. A new, 3-month effort is being undertaken by the United Nations. The focus will be on maximizing the amount of land which will be planted during the upcoming agricultural cycle. An informal pledging conference was held at the United Nations last week and some progress was made on this endeavor.

The rainy season will begin next month. The rice crop must be planted before it starts. Also, the rain will hinder the distribution of assistance inside Cambodia because it will make transportation so difficult. Therefore, a major effort is necessary to distribute rice seed and as much food aid as possible before the monsoons set in.

We also must not slacken our efforts for those presently living on the Thai-Cambodia border. The encampments which straddle the border will have a very difficult time during the rainy season. So will the holding centers inside Thailand which have an urgent need for more permanent structures and more wells for drinking water. The need for food and medical assistance will continue into the indefinite future.

The prospects for a political solution are bleak at this time. The fighting is expected to continue until the rainy season brings large-scale military activity to a near standstill. There is no immediate hope of an international conference, no apparent chance for a cease fire, no reason to expect the land borders to be opened either to large-scale food shipments or to increased numbers of international aid personnel, and no likelihood of a Vietnamese withdrawal.

It will take a major effort just to preserve the status quo.

I am not asking that we launch a new appeal for Cambodian relief. I am asking that we continue the spirit of giving and sharing that has helped the Khmer so much in recent months.

We must continue to support the U.N. efforts through U.S. Government assistance. We must continue to assist Thailand in meeting the taxing demands placed on that country by the flow of refugees and nearby fighting. We must continue as individuals to give financial support to the invaluable efforts of the international agencies and private voluntary organizations.

The Senate will be called upon in the near future to give its support to new appeals for assistance. I am sure that when that time comes the Senate will respond as it has in the past with compassion and generosity to help assure the survival of the Khmer race.

For the moment, however, my primary purpose is to remind my colleagues

that a tragedy of massive proportion goes on. It continues to deserve our attention, our economic support, and our prayers.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on March 30, 1980, he had approved and signed the following act:

S. 2269. An act to extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes.

MESSAGE FROM THE HOUSE

At 4:26 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 2253) to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. VAN DEERLIN, Mr. FLORIO, Mr. SANTINI, Ms. MIKULSKI, Mr. MURPHY of New York, Mr. MATSUI, Mr. BROYHILL, Mr. MADIGAN, and Mr. LEE were appointed as managers of the conference on the part of the House.

The message also announced that the House has agreed to the concurrent resolution (H. Con. Res. 252) expressing the sense of the Congress that April 22, 1980, should be celebrated as "Earth Day, 1980," in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 2427. An act to encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes;

S.J. Res. 131. Joint resolution designating April 10, 1980, as "ORT Centennial Day";

S.J. Res. 97. Joint resolution designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust";

H.R. 5794. An act to designate the building known as the Federal Building in Evansville, Ind., as the "Windfield K. Denton Building"; and

H.J. Res. 520. Joint resolution to extend by sixty days the expiration date of the Defense Production Act of 1950.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has agreed to H. Res. 633, electing Hon. JIM WRIGHT, a Representative from Texas, as Speaker pro tempore during the absence of the Speaker.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 252. Concurrent resolution expressing the sense of the Congress that April 22, 1980, should be celebrated as "Earth Day, 1980"; to the Committee on the Judiciary.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, April 2, 1980, he presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2427. An act to encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes;

S.J. Res. 97. Joint resolution designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust"; and

S.J. Res. 131. Joint resolution designating April 10, 1980, as "ORT Centennial Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3407. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that certain appropritaions have been apportioned on a basis which indicates a necessity for supplemental appropriations for the fiscal year 1980; to the Committee on Appropriations.

EC-3408. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Australia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-3409. A communication from the Deputy Assistant Secretary of Defense (Military Personnel Policy), reporting, pursuant to law, concerning the administration of Officer Responsibility Pay; to the Committee on Armed Services.

EC-3410. A communication from the Chairman, Securities Investor Protection Corporation, transmitting, pursuant to law, the corporation's annual report for 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-3411. A communication from the Acting Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Ex Parte No. 311 (Sub-No. 1C), Expedited Procedures for Recovery of Fuel Cost—Mechanical Protective Services, within the specified seven-month period; to the Committee on Commerce, Science, and Transportation.

EC-3412. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How Much Should Amtrak Be Reimbursed for Railroad Employees Using Passes to Ride Its Trains?" March 28, 1980; to the Committee on Commerce, Science, and Transportation.

EC-3413. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of January 1980, on (1) total itemized revenues and expenses, (2) revenues and expenses of each train operated, and (3) revenues and total expenses attributed to each railroad over which services is provided; to the Committee on Commerce, Science, and Transportation.

EC-3414. A communication from the Senior Vice President, Consolidated Rail Corporation, transmitting, pursuant to law, its annual report for 1979; to the Committee on Commerce, Science, and Transportation.

EC-3415. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to plan and provide for the development and operation of a civilian spacebased earth remote sensing system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3416. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce; to the Committee on Commerce, Science, and Transportation.

EC-3417. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to improve coastal zone management in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3418. A communication from the Secretary of Transportation, transmitting, pursuant to law, the fourth annual report of the Automotive Fuel Economy Program; to the Committee on Commerce, Science, and Transportation.

EC-3419. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the Anthracite Mine Water Control and Mine Sealing and Filling Program; to the Committee on Energy and Natural Resources.

EC-3420. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the administration's quarterly report for the period October through December 1979 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; to the Committee on Energy and Natural Resources.

EC-3421. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the U.S. Post Office-Federal Annex, Atlanta, Ga., in the amount of $9,846,000; to the Committee on Environment and Public Works.

EC-3422. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, an amendment to a previously approved prospectus which proposes a retroactive increase in the firm term rental payments and an increase in renewal period annual rental for space occupied at the World Trade Center, New York, N.Y.; to the Committee on Environment and Public Works.

EC-3423. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policy, transmitting, pursuant to law, a special report on United States membership in the African Development Bank (AFDB); to the Committee on Foreign Relations.

EC-3424. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policy, transmitting, pursuant to law, the Council's special report on United States participation in the Sixth Replenishment of the International Development Association (IDA VI); to the Committee on Foreign Relations.

EC-3425. A communication from the Under Secretary of Defense (Research and Engineering), transmitting, pursuant to law, a report on the results of a thorough review of the inter-agency procedures and disclosure criteria used by the United States government in determining whether sensitive weapons technology will be transferred to other countries; to the Committee on Foreign Relations.

EC-3426. A communication from the Administrator, General Services Administration, reporting, pursuant to law, on additional areas qualifying for designation as high rate geological areas (HRGA's); to the Committee on Governmental Affairs.

EC-3427. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, a report covering the activities of the Office of Inspector General during the period January 1, 1979, through December 31, 1979; to the Committee on Governmental Affairs.

EC-3428. A communication from the Inspector General (Acting), Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on the activities of the Office of Inspector General during the preceding calendar year; to the Committee on Governmental Affairs.

EC-3429. A communication from the Administrator, General Services Administration, reporting, pursuant to law, regarding a report made by the National Commission for Manpower Policy, entitled "An Enlarged Role for the Private Sector in Federal Employment and Training Programs"; to the Committee on Governmental Affairs.

EC-3430. A communication from the Administrator, General Services Administration, reporting, pursuant to law, on a report by the Board of Visitors, United States Naval Academy to the President for the meeting of 29-30 November 1976; to the Committee on Governmental Affairs.

EC-3431. A communication from the Director, Executive Office of the President, transmitting, pursuant to law, a report relating to new systems of records; to the Committee on Governmental Affairs.

EC-3432. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend and amend the Runaway Youth Act, and for other purposes; to the Committee on the Judiciary.

EC-3433. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law a report relating to administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-3434. A communication from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to amend section 546 and 565 of title 28, United States Code, to provide for interim designation of United States attorneys and United States marshals by the Attorney General; to the Committee on the Judiciary.

EC-3435. A communication from the Chairman and General Counsel, National Labor Relations Board, reporting, pursuant to law, on the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-3436. A communication from the U.S. Commissioner of Education, transmitting, pursuant to law, the Commissioner's annual report for fiscal year 1979; to the Committee on Labor and Human Resources.

EC-3437. A communication from the Chairman, National Advisory Council on Equality of Educational Opportunity, transmitting, pursuant to law, the Council's annual report of activities conducted during calendar year 1977; to the Committee on Labor and Human Resources.

EC-3438. A communication from the Delegate, Community Education Advisory Board, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Council's for the calendar year 1977; to the Committee on Labor and Human Resources.

EC-3439. A communication from the Chairman, Advisory Council on Environmental Education, transmitting, pursuant to law, a report on activities of the Council for calendar year 1977; to the Committee on Labor and Human Resources.

EC-3440. A communication from the U.S. Commissioner of Education, transmitting, pursuant to law, annual report of three centers on educational media and materials for the handicapped; to the Committee on Labor and Human Resources.

EC-3441. A communication from the U.S. Commissioner of Education, transmitting, pursuant to law, final regulations for the Population Education Program; to the Committee on Labor and Human Resources.

EC-3442. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, an annual report on age discrimination, March 1980; to the Committee on Labor and Human Resources.

EC-3443. A communication from the U.S. Commissioner of Education, transmitting, pursuant to law, final resolutions for the Bilingual Education Program, to the Committee on Labor and Human Resources.

EC-3444. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a special report on the Primary Health Care Needs of Immigrants; to the Committee on Labor and Human Resources.

EC-3445. A communication from the Chairman, National Advisory Council on Ethnic Heritage Studies, transmitting, pursuant to law, the Council's annual report for the period 1977-78; to the Committee on Labor and Human Resources.

EC-3446. A communication from the Delegate, National Advisory Council for Career Education, transmitting, pursuant to law; the Council's report for calendar year 1977; to the Committee on Labor and Human Resources.

EC-3447. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "Status of Vocational Education In FY 1978"; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred, as indicated:

POM-646. A resolution adopted by the Legislative Council of the State of Arkansas; to the Committee on Banking, Housing, and Urban Affairs:

"INTERIM RESOLUTION 79-42

"Whereas, unless conditions change significantly, the State of Arkansas may experience a fifty percent decrease in new housing starts during 1980 and similar decreases in new housing starts may reasonably be expected in other states; and

"Whereas, since the residential construction industry affects so many other industries, any such substantial reduction in new housing starts will seriously affect the entire economy of the State of Arkansas and the nation as a whole; and

"Whereas, any such severe curtailment of new housing starts in the State will bring about unemployment of many persons in the State whose jobs either directly or indirectly depend on the residential construction business or the manufacture or processing of materials and equipment used in residential construction; and

"Whereas, Arkansas is normally one of the first areas to feel the impact of any change in national housing policy since the Arkansas residential construction industry is made up primarily of small businessmen; and

"Whereas, it is imperative that the United States Congress and other federal officials take action at the earliest possible date to provide appropriate relief to the home building industry in Arkansas and other states,

"Now therefore, be it resolved by the Legislative Council of the State of Arkansas:

"That the Legislative Council respectfully urges the President of the United States, the United States Congress and the Secretary of Housing and Urban Development to take appropriate action to provide relief to the home building industry including the enactment of legislation to authorize continued use of tax exempt housing development bonds at the State level and to thereby promote the continuation of programs similar to the highly successful secondary mortgage program of the Arkansas Housing Development Agency; and the enactment and funding of legislation similar to the Brooke-Cranston Housing Assistance Program, a low interest rate housing mortgage program; and any other reasonable action designed to promote the residential construction industry in Arkansas and other states.

"Be it further resolved that upon adoption of this Resolution, a copy shall be transmitted to the President of the United States, the presiding officer of the U.S. Senate and the U.S. House of Representatives, and to the Secretary of the Housing and Urban Development Agency and to each member of the Arkansas Congressional Delegation."

POM-647. A joint memorial adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources:

"HOUSE JOINT MEMORIAL No. 25

"Whereas, Continuing national overreliance on imported petroleum is making future energy supplies less certain and is degrading national security and the health of the nation's economy; and

"Whereas, The combination of increased energy conservation and development and use of all practical domestic energy resources is essential to overcoming national energy problems; and

"Whereas, Geothermal energy is an important resource which has the capability to contribute significantly to overcoming the national overreliance on imported petroleum; and

"Whereas, Washington State lands include five stratovolcanoes and other geological features indicative of substantial geothermal resources; and

"Whereas, Current indications are that most of the geothermal resources in the State are on federal lands, and to date no federal leases have been issued for geothermal development, and national forest environmental impact statements issued thus far have accorded geothermal energy development a low priority; and

"Whereas, A drastic change in the federal government posture in relation to geother-

mal resources development on federal lands in Washington State is required in order to promote development thereon; and

"Whereas, Comprehensive geothermal energy development legislation has been introduced in Congress which will eliminate many barriers and constraints against geothermal energy development;

"Now therefore, Your Memorialists respectfully pray:

"(1) That early and full consideration be given to the geothermal legislation; and

"(2) That comprehensive legislation as helpful as possible to geothermal energy development be enacted by the 96th Congress as soon as possible.

"Be is resolved, that copies of this memorial be immediately transmitted to the Honorable Jimmy Carter, President of the United States, the Secretaries of Agriculture, Energy, and Interior, the President of the Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM—648. A memorial adopted by the House of Representatives of the State of Arizona; to the Committee on Labor and Human Resources:

"HOUSE MEMORIAL 2001

"Whereas, the Congress is considering H.R. 5040 and S. 1608, relating to control of expanding businesses, entitled "The National Employment Priorities Act of 1979"; and

"Whereas, the Act would require certain businesses which decide to change locations, drop a product line because it is unprofitable or close down to comply with arduous notice, hearing and report requirements; and

"Whereas, the Act would require businesses to pay laid off or former employees a percentage of their salary for up to two years after termination of employment; and

"Whereas, the Act would require certain firms to reimburse local government for lost taxes in the event of relocation or closing; and

"Whereas, these and the other numerous provisions of the Act will discourage development, expansion and improvement of private enterprise in the United States; and

"Whereas, the popular myth that major employment change is caused by migration of firms has been disproven in many studies; and

"Whereas, firm branching is important in improving community investment.

"Wherefore your memorials, the House of Representatives of the State of Arizona, prays:

"1. That the Congress give its most earnest consideration to the defeat of The National Employment Priorities Act of 1979.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

POM–649. A resolution adopted by the Senate of the State of Washington; to the Committee on Foreign Relations:

"SENATE RESOLUTION 1980–231

"Whereas, Monday, March 10, marked the opening day of the annual slaughter of baby harp seals in Newfoundland; and

"Whereas, The hunt is deemed by many to be unnecessary inhumane treatment of a species for reasons of economy and fashion, and

"Whereas, Once the pelts are removed from the pups, the carcasses are left wasted on the ice; and

"Whereas, Although the quotas each year remain over 100,000, the Western Harp Seal population is steadily declining, and faces the danger of becoming a threatened species; and

"Whereas, Both the United States Senate and House of Representatives voiced their opposition to the slaughter through passage of a joint reolution;

"Now, therefore, be it resolved, That the Washington State Senate adds its support to ban the mass inhumane slaughter of harp seal pups, and further urges that an international plan be adopted to allow the harp seal population to recover; and

"Be it further resolved, That copies of this resolution be immediately transmitted to the President of the United States and to each member of Congress from the State of Washington."

POM–650. A resolution adopted by the Legislature of Guam; to the Committee on Energy and Natural Resources:

"SUBSTITUTE RESOLUTIONS NO. 477 AND 484

"Whereas, on June 8, 1979, the members of the Fifteenth Guam Legislature adopted Resolution No. 271, expressing the opposition without any reservation, of the people of Guam to any use of Guam as a storage for nuclear waste dumping site; and

"Whereas, on December 27, 1979, leaders of the Pacific Islands nations met in Honolulu, Hawaii with officials from the Congressional House Subcommittee on National Parks and Insular Affairs, and unanimously stood firm and informed officials of the State Department and Subcommittee members that they are opposed without any reservation, to any use of a Pacific Island for storage as a nuclear waste dump site; and

"Whereas, a major concern of the people of Guam was and still is, the unwillingness of the State Department to identify in public the potential sites to be used; and

"Whereas, the legacies of the American and French nuclear test programs in the Pacific area are a fear of even the presence of nuclear vessels, much less the storage of nuclear waste on some 'uninhabited' island, and a general distrust of the intentions of the nuclear powers in the area; and

"Whereas, despite the expressions and concern from the Pacific Island entities, the State Department would only state formally that: 'The sites currently under consideration are undisputed U.S. territories, either uninhabited or having no indigenous population, and do not involve any location in the Trust Territory of the Pacific Islands'; and

"Whereas, whatever benefit that statement has is dissipated by the word 'currently' since there are uninhabited islands in the Northern Marianas, Samoa, the Aleutians, and Hawaii; and

"Whereas, the Pacific Daily News reported on February 9, 1980 that the Japanese government plans to dispose of 5,000 to 10,000 drums of low-level radioactive waste near the island of Maug, and the dumping operation by Japan's Rad-waste Management Center will commence on March 1981 after securing the understanding, and obtaining approval from the organization for Economic Cooperation and Development-via-the State Department; and

"Whereas, Maug is only a few miles away from populated islands and in one of the richest fishing areas of the Pacific Ocean; and

"Whereas, leaks could develop and that radiation would be brought down to the Northern Marianas and Guam by currents or by high migratory fish, and during certain parts of the year, the currents in the Mariana Archipelago are like that of whirlpools and chances are that currents will bring the leaked radiation south; and

"Whereas, the members of the Pacific Forum met in September of 1979 in the Solomon Islands and unanimously adopted a resolution calling upon the United States to abandon plans to store nuclear waste in the Pacific; and

"Whereas, such storage may be safe, however, the U.S. scientific record on such matters have been "far from perfect", not only in the Bikini Atoll of Enewetak, Marshall Islands, but even on tests in Nevada; and

"Whereas, with the proposed nuclear dump site, most of the radioactive waste would come from Japan, South Korea, Taiwan, and the Philippine Islands; now, therefore, be it

"Resolved, that the issue of nuclear waste dumping in the Pacific has become a local constitutional issue as evidenced by its inclusion in the constitution of the Federated States of Micronesia, and the constitution of the Republic of Palau which the State Department vehemently opposed; and be it furthur

"Resolved, that during the recent trip of the Secretary of Interior, Cecil Andrus, the members of the First Northern Marianas Commonwealth Legislature, a strongly worded position paper was presented opposing the use of any island in the Northern Mariana Islands Archipelago as storage site for nuclear waste dumping; now, therefore, be it

"Resolved, that the members of the Fifteenth Guam Legislature, on behalf of the people of Guam, hereby strongly oppose without any reservation, the use of Guam or any island in the Mariana Archipelago as a storage site for nuclear waste; and be it further

"Resolved, that the Legislature, on behalf of the people of Guam, calls upon the government of the United States to protect the interests of its citizens who reside in the Mariana Islands; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the United States Congressional House and Senate Committees on Territories; to the Assistant Secretary of State for Asian and Pacific Affairs; to the Secretary of the Interior; to the Secretary of the State Department; to the President of the United States; to the White House Domestic Council's Office on Territorial Affairs; to the President Pro-tem of the United States Senate; to the Speaker of the United States House of Representatives; to Guam's Delegate to Congress; to the Prime Minister of the Japan Government; to the United States Ambassador in Japan; to the President and Speaker of the Northern Marianas Commonwealth Legislature; to the Governor of the Northern Marianas; to the Northern Marianas Washington Representative in Washington, D.C.; to the President of the Federated States of Micronesia; to the Sneaker of the Congress of Micronesia; to the President of the Independent Republic of the Marshall Islands; to the Speaker of the Palau District Legislature; to the Governor of Hawaii; to the Chairman of the United Nations Political Affairs Division/Carribean/Asian and Pacific Affairs; to the President of Nauru; to the Executive Director of the South Pacific Commission; and to the Governor of Guam."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

S. 2177. A bill to amend the mortgage amount, sales price, and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes (Rept. No. 96–650).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

H. Con. Res. 162. Concurrent resolution providing for the printing of the final report

of the Indian Claims Commission as a House document (Rept. No. 96–651).

H. Con. Res. 233. Concurrent resolution to authorize the printing as a House document an anthology of Captive Nations Week proclamations, addresses, and other relevant material (Rept. No. 96–652).

H. Con. Res. 283. Concurrent resolution authorizing the printing of "Federal Election Campaign Laws Relating to the United States House of Representatives" (Rept. No. 96–653).

S. Res. 400. An original resolution to pay a gratuity to Lillie M. Hines.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HEFLIN, from the Committee on the Judiciary:

Truman McGill Hobbs, of Alabama, to be U.S. district judge for the Middle District of Alabama.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Herta Lande Seidman, of New York, to be an Assistant Secretary of Commerce.

Stephen J. Friedman, of New York, to be a member of the Securities and Exchange Commission.

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

By Mr. PELL, from the Committee on Foreign Relations:

Joseph C. Wheeler, of Virginia, to be Deputy Administrator of the Agency for International Development.

David Bronheim, of Connecticut, to be an Associate Director of the U.S. International Development Cooperation Agency.

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

By Mr. PELL, from the Committee on Foreign Relations:

Julian Nava, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to Mexico.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to quests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTORS

Nominee: Julian Nava.

Post: Ambassador to Mexico.

Contributions, and amount

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, deceased.
5. Grandparents, deceased.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

By Mr. PELL, from the Committee on Foreign Relations:

Joan Edelman Spero, of New York, to be the Representative of the United States on the Economic and Social Council of the United Nations, with the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Joan Edelman Spero.

Post: Ambassador to United Nations Economic and Social Council.

Nominated: January 1980.

Contributions, and amount

1. Self, none.
2. Spouse, none.
3. Children and spouses; names: Jason Spero and Benjamin Spero, none.
4. Parents; names: Sylvia Edelman and Samuel Edelman, none.
5. Grandparents, deceased.
6. Brothers and spouses; names: Richard Edelman, Olivia Edelman, Robert Edelman, James Edelman, none.
7. Sisters and spouses, none.

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. RIEGLE (for himself and Mr. LEVIN):

S. 2518. A bill to provide a program of emergency unemployment compensation; to the Committee on Finance.

By Mr. WEICKER:

S. 2519. A bill to provide for the prevention of the destruction of fisheries resources by lost fishing gear; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER:

S. 2520. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the unified credit allowed against estate tax and gift tax; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. BOREN, Mr. BELLMON, Mr. WALLOP, Mr. BENTSEN, Mr. DOMENICI, Mr. MCCLURE, Mr. TOWER, and Mrs. KASSEBAUM):

S. 2521. A bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax; to the Committee on Finance.

By Mr. DURENBERGER:

S. 2522. A bill to amend the Internal Revenue Code of 1954 to extend the exclusion of gain from the sale of a principal residence to individuals under 55 years of age, and for other purposes; to the Committee on Finance.

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 2523. A bill to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JACKSON (by request):

S. 2524. A bill to establish the Western Arctic Management Area in Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2525. A bill to establish the Arctic North Slope National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2526. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on certain industrial development bonds the proceeds of which are to be used to furnish railroad transportation; to the Committee on Finance.

By Mr. CANNON:

S. 2527. A bill to provide for the submission of a plan of rationalization of rail properties of the Consolidated Rail Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. MORGAN, and Mr. HELMS):

S. 2528. A bill granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2529. A bill to amend title 39 of the United States Code to apply to subscription and solicitation materials of one conservation publication mailed in bulk by each State the lower third class rate applicable to matter mailed in bulk by qualified nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CANNON (by request):

S. 2530. A bill to improve the fairness and equity of the protection provided to railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. §701 et seq.); to the Committee on Commerce, Science, and Transportation.

By Mr. PELL (for Mr. CHURCH) (by request):

S. 2531. A bill to amend the United Nations Participation Act, certain passport authorities, the Foreign Service Act, and for other purposes; to the Committee on Foreign Relations.

By Mr. HAYAKAWA (for himself, Mr. TOWER, Mr. WALLOP, Mr. MCCLURE, Mr. SIMPSON, Mr. STEVENS, Mr. HART, and Mr. BOREN):

S. 2532. A bill to reinstate and validate United States oil and gas leases numbered OCS–P–0218 and OCS–P–1226; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 2533. A bill to amend the Internal Revenue Code of 1954 to exempt independent producers and royalty owners from the windfall profit tax on the first 1,000 barrels of daily production; to the Committee on Finance.

By Mr. CRANSTON:

S. 2534. A bill to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Veterans' Administration's Department of Medicine and Surgery, and for other purposes; to the Select Committee on Veterans' Affairs.

By Mr. HAYAKAWA (for himself, Mr. BENTSEN, Mr. BELLMON, and Mr. Mr. CRANSTON):

S.J. Res. 158. Joint resolution designating the joint reunion of American and Japanese veterans on the island of Iwo Jima on June 11, 1980, as a National Historic Event; to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. ROTH):

S.J. Res. 159. Joint resolution disapproving the action taken by the President under the Trade Expansion Act of 1962 in imposing

a fee on imports of petroleum or petroleum products; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2518. A bill to provide a program of emergency unemployment compensation; to the Committee on Finance.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1980

● Mr. RIEGLE. Mr. President, I am today introducing legislation for myself and Senator LEVIN to establish a program of emergency unemployment benefits for individuals who have exhausted their entitlement to regular and extended benefits under existing law.

Most States now provide 26 weeks of unemployment compensation under the State's regular unemployment insurance program. During periods of high unemployment, an additional 13 weeks of benefits are payable under the Federal-State extended benefits program to workers who have exhausted their regular State benefits. Extended benefits are payable only if seasonally adjusted insured unemployment for the Nation as a whole equals or exceeds 4.5 percent in each of the 3 most recent calendar months, or if unemployment in a particular State reaches specified levels. Extended benefits are "triggered on" in that State if the rate of insured unemployment for that State is at least 4 percent, but only if it equals or exceeds, during a moving 13-week period, 120 percent of the average rate for the corresponding 13-week period in the preceding 2 calendar years. At the State's option, extended benefits in that State can also be triggered if the insured unemployment in that State is at least 5 percent, even if the rate is not 20 percent higher than in the preceding years. If the national trigger is "on," extended benefits are payable nationally. If only the State trigger is "on," extended benefits are payable only in that State.

During the last recession, it became evident that the combination of regular and extended benefits was insufficient to protect workers against sustained levels of severe unemployment. Thousands of workers exhausted extended benefits, but were unable to find jobs in an economy suffering from recession. In response, the Congress enacted, on a temporary basis, legislation providing a third tier of protection for workers in States with very severe unemployment. Under this program, a third tier of benefits, providing an additional 13 weeks of payments, was available to exhaustees in States with an insured unemployment rate of 5 percent or more.

The Emergency Unemployment Compensation Act, which established this temporary third tier of benefit protection, expired in 1978. As a result, individuals in high unemployment States who exhaust their benefits are today left to fend for themselves.

Nationally, unemployment continues to hover between 5.5 and 6 percent. Consequently, there has been little attention to the fact that the expiration of the Emergency Unemployment Compensation Act has left the unemployment insurance system unable to cope with sustained levels of high unemployment.

But national unemployment figures mask very severe unemployment concentrated in particular States and regions. Ten States now have unemployment levels high enough to have triggered 13 weeks of extended benefits. These States are Alaska, Idaho, Michigan, New Jersey, Ohio, Pennsylvania, Puerto Rico, Rhode Island, Maine and Oregon.

In my own State of Michigan, seasonally adjusted unemployment has now reached 10.3 percent. Our insured unemployment rate is 8.18 percent, compared to a national insured unemployment rate of 3.15 percent. The extended benefits program has been triggered on in Michigan since October 6, 1979. More than 358,000 persons are collecting unemployment insurance in Michigan today. Each month, it is projected that more than 15,000 of these jobless workers will exhaust their benefits and be forced to leave the rolls, even though they have been unable to secure employment and the State's economic picture remains bleak.

These workers have lost their jobs through no fault of their own. After they exhaust their unemployment insurance, they have no place to turn. Few are eligible even for welfare. The stress which they and their families face is reflected in increased alcoholism, depression and other mental health problems, and family instability.

These workers and their families deserve and need our attention. The bill I am introducing today would provide badly needed additional protection under the unemployment insurance system, similar to that available under the old Federal supplemental benefits program enacted in 1974 and subsequently expired. I urge my colleagues to join me in supporting this urgently needed legislation.●

By Mr. WEICKER:

S. 2519. A bill to provide for the prevention of the destruction of fisheries resources by lost fishing gear; to the Committee on Commerce, Science, and Transportation.

DESTRUCTION OF FISHERIES RESOURCES BY LOST FISHING GEAR

● Mr. WEICKER. Mr. President, I am pleased to introduce today legislation intended to remedy a serious problem in our fishing industry.

Every year a portion of the Nation's valuable fishery resource is destroyed due to the catching and killing of fish by lost fishing gear, commonly called "ghost fishing." Fishing gear is often lost through accidents, carelessness or acts of nature. Certain types of gear, such as traps and pots, are particularly lethal continuing to fish for weeks, months or even years after being lost. In addition, when gill nets which are made of nondegradable nylon are used in unprotected waters they may become lost and catch fish for long periods of time.

Last year on a diving expedition, I personally observed several fish traps that were lost by fishermen in the waters of the Virgin Islands and Bahamas. These traps were full of fish, some dead, some half dead. The traps were on the bottom and judging from the growth of algae on most of them, they had been in the water for a long time. The traps were efficiently catching fish while none could escape. Although I released the fish, it is clear that many other traps which have been lost and never found continue to take their toll.

The estimated number of pots lost each year in certain fisheries is in the hundreds of thousands. Several States and fishery management plans have regulations which are intended to reduce ghost fishing losses by requiring fishing gear to have "degradable devices." These devices, such as doors with dissolving locks, cotton or wood panels, degrade after a period of time allowing the fish to escape after a trap is lost. However, because the regulations are not standardized, consistent or in some cases do not even exist the effective prevention of ghost fishing is questionable.

For example in the New England lobster fishery there are an estimated 250,000 pots lost each year, yet there is no requirement for a degradable device. In the king crab fishery there is an estimated annual pot loss of 25,000, and here again there is no requirement for a degradable device. Both the blue crab and black seabass fisheries have no provisions to reduce ghost fishing losses.

In other fisheries, such as the spiny lobster fishery of the Southwest, the regulations are inconsistent. In this case the State of Florida requires a degradable wood panel but over 70 percent of the fishery is outside of Florida's jurisdiction—and is presently not regulated. The black cod fishery on the Pacific coast requires degradable cotton stitching on fish traps but I understand that fishermen generally ignore the regulation because of the time needed to periodically restitch their traps.

There are cases, on the other hand, where the fisheries are consistently regulated in terms of degradable devices. The tanner crab fishery of the North Pacific is controlled by State, Federal, and Canadian regulations requiring degradable devices. The Regional Fishery Management Councils are also preparing management plans for some of these fisheries and in these are addressing the ghost fishing problem. However, there are several species such as the dungeness crab and blue crab, for which no management plan is being considered.

As new plastic and metal equipment replace older and less durable wood gear the dangers of ghost fishing will increase sharply. This new equipment may last indefinitely on the ocean floor. Because the purpose of the degradable device is the same in all cases, requiring a standard throughout the Nation would reduce cost for fishermen and ease enforcement problems. Piecemeal legislation and regulation has left gaps and creates problems for both fishermen and enforcement agents trying to comply with the various laws. This legislation, which

amends the Fishing Conservation and Management Act of 1976, will give the Secretary of Commerce the authority necessary to overcome these problems and reduce the destruction of fish resources due to ghost fishing. The Secretary of Commerce, in cooperation with the fishing industry, should undertake a study to determine which degradable devices are the easiest to maintain and the cheapest to produce. A single national regulation for standard, cheap and easy-to-use degradable devices is in the national interest.

I have long been a supporter of fishermen and the fisheries industry of this Nation. A healthy fisheries industry depends primarily on a healthy resource. By controlling the losses due to ghost fishing we can conserve and maintain our fishery resource, which will be a benefit to all.

The bill I am introducing today would require that all fishing gear that is potentially capable of ghost fishing shall be equipped with a degradable device. The Secretary of Commerce would be required to make every effort to make these regulations consistent throughout U.S. coastal waters.

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

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

S. 2519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fishery Conservation and Management Act of 1976 is amended by—

(1) adding at the end of section 3 the following new paragraphs:

"(26) the term 'ghost fishing' means the capture of fish by lost or abandoned pots, traps, gill nets and other fixed gear of a similar nature; and

"(27) the term 'degradable device' means a device which after 1 month renders lost fishing gear ineffective.";

(2) in section 307, striking "and" after paragraph (1)(H);

(3) adding at the end thereof the following new subparagraphs:

"(I) after January 1, 1981, to use any fishing gear within the Fishery Conservation Zone that the Secretary finds can ghost fish unless such gear is equipped with a degradable device in accordance with regulations promulgated by the Secretary; and

"(J) to ship, transport, offer for sale, sell, purchase, import, or export in interstate commerce any fishing gear that the Secretary finds can ghost fish unless such gear is equipped with a degradable device in accordance with regulations promulgated by the Secretary."; and

(4) adding at the end of section 204 the following new paragraph:

"(3) regulations promulgated pursuant to section 307(1) by the Secretary, in cooperation with the regional councils, shall, to the maximum feasible extent be consistent throughout United States coastal waters."●

By Mr. DURENBERGER:

S. 2520. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the unified credit allowed against estate tax and gift tax; to the Committee on Finance.

Mr. DURENBERGER. Mr. President, today I am introducing a bill to amend the estate tax provisions of the Internal Revenue Code to provide that gross estates with a value of $600,000 or less would not be subject to tax.

Mr. President, due to inflation, the Federal estate tax has changed from a tax on the estates of the rich to a tax on the estates of the middle class. In general, taxpayers in the upper brackets have solved their estate tax problems through sound planning devices. The average wage earner, farmer, small businessman, or a professional who has worked hard all his life and prudently saved and invested must pay a disproportionate share of Federal estate tax revenue. These taxpayers, often due to the nature of their assets, are not in a position to take advantage of sophisticated transfers designed to minimize estate tax liability.

Mr. President, the current estate tax came into our system in 1916. When Federal expenditures in preparation for World War I were rising. What began as an emergency levy, to be imposed briefly, has evolved as a permanent instrument of social policy. While weighing this social policy, it is important to remember that Federal estate taxes are capital levies and steadily reduce private capital available for investment. Private capital is the basis of the American economic system and a ready supply of such capital is essential to the stability and economic growth of the Nation.

Everyone loses when Government consumes productive capital. Yet for the sake of economic equality, confiscatory death taxes are particularly destructive to the maintenance of small businesses and family farms.

The prosperous enterprise that is in the possession of one family throughout decades is one of the favorite targets of a certain group of tax reformers. Nevertheless, in a competitive enterprise system, the heir to a business must continually manage its assets to best service his customers. If he does so ably and successfully, he will preserve the business or even facilitate its growth. If he should neglect its management or supervision, competition would soon inflict serious losses. As profits allocate capital to able entrepreneurs, so do losses take capital from incompetent heirs. They destroy a family enterprise in a few years and thereby make room for more able newcomers.

Small farms and businesses have played an important role in American economic history. They have amply supplied a rapidly increasing population. Nevertheless, the impact of death duties probably is more severe on farming than on any other occupation. When the tax progression almost reached its present rates in 1935 land values were greatly depressed and the average farm value with land and buildings probably did not exceed $5,000. Very few farmers were affected by the estate tax.

In March 1975 the average value of land and buildings per operating farm unit was estimated at $143,000. In addition, the amount of machinery and equipment required to operate a farm unit was probably approaching this amount. As a result, estate taxation has become a serious threat to a great many farmers.

Mr. President, these assets generally are not readily marketable and the liquidation of assets to pay estate tax creates special difficulties with farms and closely held businesses. The need to liquidate the assets of these operations to pay estate tax encourages mergers of such businesses with larger corporations. Various provisions have been accepted in recent years to alleviate the liquidity and forced sale problem. We have established a special valuation method for estates that continue to operate the business for a fixed period of time after death. We have approved a 5-year moratorium on the payment of estate taxes on qualifying farms and closely held businesses with no interest payable during this period. We have provided, in limited circumstances, for the sale of stock at capital gains rates to pay the estate tax liability.

Mr. President, these changes were well intentioned provisions to provide needed relief to estates with farms and closely held businesses.

Nevertheless, estates are not taking advantage of them, as they are complex and unworkable. They will allow lawyers to tinker with the system while farmers and small businessmen disappear. The estimated estate and gift tax percentage of total revenues is approximately 1.5 percent or $5 billion. Compare these figures with the cost of legal and accounting services providing estate planning, the number of courses in our schools, the number of planning conferences sponsored by professional associations. The cost of the above activities seems somewhat inconsistent when we look at the total revenue of estate and gift taxes. As one knowledgeable observer said several years ago; "While it—estate and gift tax law—helps to support many lawyers, it does relatively little to support the Government."

Mr. President, the bill I am introducing today is simple, direct and workable. It relieves estates with a value of $600,000 from a tax designed for a social rather than an economic purpose.

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

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

S. 2520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 2010 of the Internal Revenue Code of 1954 (relating to unified credit against estate tax) is amended by striking out "$47,000" and inserting in lieu thereof "$192,800".

(b) Paragraph (1) of section 2505 (a) of such Code (relating to the unified credit against gift tax) is amended by striking out "$47,000" and inserting in lieu thereof "$192,800".

(c)(1) Section 2010 of such Code is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c).

(2) Section 2505 of such Code is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c).

SEC. 2. The amendments made by this Act shall apply to the estates of decedents dying after December 31, 1980.

By Mr. DOLE (for himself, Mr. BOREN, Mr. BELLMON, Mr. WALLOP, Mr. BENTSEN, Mr. DOMENICI, Mr. MCCLURE, Mr. TOWER, and Mrs. KASSEBAUM):

S. 2521. A bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax; to the Committee on Finance.

Mr. DOLE. Mr. President, today, President Carter signed the so-called windfall profit tax bill into law. Some Members were invited and some were not. This signing ended the very long journey of the windfall profit tax. If we add up the time from when we first started the discussion of the windfall profit tax, it spans a period of 11 months.

This Senator believes that the windfall profit tax will make this country's journey to eventual energy independence much more difficult. As I said on the floor the day after the conference report was agreed to by the Senate, the windfall profit tax is bad energy policy and bad economic policy. It will lower incentives for discovering new oil when they should be increased. It will thus reduce future domestic oil production at a time when our dependence on undependable foreign sources of oil is most perilous.

The bill is bad economic policy because it places the largest tax in our history on American consumers at a time when large tax reductions are what are needed. How can Americans sustain 19-percent inflation, almost no real growth in our economy and a new $227 billion tax all at the same time?

Finally, this law is inequitable. It taxes small royalty owners at the same rate as Exxon and the other oil industry giants.

There will come a time in the very near future when those who pushed for this legislation will recognize their catastrophic folly.

Mr. President, the Senator from Kansas has repeatedly pointed out how the windfall profit tax unfairly dealt with small royalty owners.

We are finding that in the State of Kansas—and I am certain every other oil-producing-State Senator will find the same during the Easter recess if he talks to farmers or other small investors who purchased royalties over the years—that royalty owners are extremely unhappy to be paying the same rate of tax as the major oil companies.

Many royalty owners in the State of Kansas—farmers and others—tell me they were extremely surprised that they are being asked to pay this tax. They did not understand that this tax would apply to them, because they had been told, time after time, by commentators and by the President of the United States, that we are going after the big oil companies and that big oil was to pay the tax. This was not an accurate representation of what the windfall profit tax proposal contained.

During the final Senate consideration of the conference report on the windfall bill, the Senator from Kansas attempted to focus the attention of his colleagues on the plight of the approximately 2 million small royalty owners throughout the United States. In this Senator's view, one of the most unjust aspects of the final windfall tax is the harsh treatment it gives these small royalty owners. Under the conference report, these royalty owners are subjected to the full windfall profit tax rates—a 70-percent tax rate on upper and lower tier oil, a 60-percent tax rate for stripper oil and a 30-percent tax rate for newly discovered, incremental tertiary and heavy oil. These are the same windfall tax rates applicable to the giant, multinational oil companies.

The Senator from Kansas recognizes that when the Senate was presented with the conference bill on H.R. 3919, we had no real latitude to make modifications in the bill. In order to make any change in the bill to ease the burden on small royalty owners, it would have been first necessary to defeat the conference report and to then request a new conference with the House. The Senator from Kansas understands that many Members were reluctant to delay passage of the windfall bill, even though they were entirely in sympathy with the concerns of small royalty owners.

Accordingly, the Senator from Kansas is today joining the distinguished Senators from Oklahoma, Mr. BOREN, and Mr. BELLMON, and Mr. WALLOP in introducing a bill which would entirely exempt small royalty owners from the windfall profit tax, up to a total of 10 barrels per day of royalty interest. This 10-barrel-per-day exemption should cover the vast majority of the small royalty owners who will be most severely impacted by the imposition of the windfall profit tax on their interests.

At least in Kansas, most royalty owners are working farmers who are struggling to survive in the face of plummeting farm commodity prices. These individuals are dependent on the modest royalty checks they receive to weather the currently unfavorable farm market. There is also a sizable group of royalty owners who are retired persons dependent on small royalty checks to supplement their social security payments. Clearly these individuals are not oil profiteers. They were not the intended target of the windfall profit tax when it was first proposed, when it passed the Senate Finance Committee, or when it originally passed the Senate.

The imposition of the windfall profit tax upon these small royalty owners will cause a substantial rollback in the income received by these individuals. This is especially true for royalty owners on stripper oil properties. On a barrel of stripper oil selling for $38, a royalty owner would typically receive a $4.75 royalty payment. After the imposition of the windfall profit tax, the royalty owners will have to pay a $1.71 tax on this royalty income. Thus, the royalty owner's payment per barrel will be slashed from $4.75 to $3.04 by the windfall profit tax—a 36-percent drop in income.

The Senator from Kansas has heard from dozens of extremely unhappy landowners who assert they will not enter into any new leases because of the imposition of the windfal profit tax. There have already been reports that landmen trying to acquire mineral rights are running into resistance from landowners. Clearly if a substantial number of landowners refuse to enter into new leases because of their anger over this new tax, it will have a significant detrimental effect on domestic oil production.

Mr. President, it is difficult to justify why a working farmer or a retired person should be subject to the windfall profit tax at all, much less be subject to the same heavy tax that Exxon pays. The inequity of this situation cannot be allowed to persist. Accordingly I am hopeful that the Senate Finance Committee will promptly move forward on the small royalty owner exemption bill that we are introducing here today, and that it can be quickly enacted. The Senator from Kansas takes considerable comfort in the concern that the distinguished chairman of the Senate Finance Committee, Mr. LONG, has expressed toward small royalty owners and in the interest he has shown toward moving forward on legislation to ease the burden on these individuals.

Mr. President, I have discussed in this Chamber this approach with the distinguished chairman of the Finance Committee, Senator LONG. He has indicated a willingness, to try to find some way to accommodate the small royalty owners. I am certain many other of our colleagues are also sympathetic.

The Senator from Kansas can understand that the only choice we had during consideration of the windfall profit tax conference report was to either accept it or reject it and start all over. I know that many Senators who support this exemption were reluctant to defeat the conference report.

But I feel that once the plight of the small royalty owner is fully understood, there will be broad bipartisan support from Senators from producing and nonproducing States to try to right this wrong.

I hope we can have a hearing on our proposal at the very earliest time and that the Finance Committee can report a measure that will have the support of the majority of Senators at some time in the very near future.

I see the distinguished junior Senator from Oklahoma has come to the Chamber.

I have just been explaining the bill we are introducing which would exempt up to 10 barrels per day of so-called royalty oil.

It seems to me that this bill is a step in the right direction.

I thank the distinguished Senator from Oklahoma for his leadership in proposing this legislation and for his efforts in the past several months to try to prevent this from happening.

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

Mr. DOLE. I am happy to yield to the Senator from Oklahoma.

Mr. BOREN. I am proud to join with my colleague from Kansas in introduc-

ing this legislation, and I commend him for taking the lead on this subject.

I think we should have good hope for positive action in the Senate, and the Senate in the past, acting on the broader bill, recognized the special needs of royalty owners.

When we were having general debate on the tax many people in the conference simply did not focus on what was being done here to the small royalty owners, the fact that there are countless thousands, perhaps even over a million people in this country who have their life savings in many cases tied up in small royalty investments, and we are not here dealing with any kind of privileged group. In fact, they do not even have a national organization. They are certainly not a well-organized interest group.

In many cases these are people virtually at the lower income levels who are being very, very hard hit by this tax.

I certainly commend the Senator from Kansas for his efforts in rectifying this wrong.

Mr. DOLE. I thank my distinguished colleague from Oklahoma.

I am certain the Senator from Oklahoma is receiving copies of letters now from little royalty owners who are getting letters from the big oil companies saying, in effect, "Greetings, we are about to tax you to 60 percent." Sixty percent of, the difference between the base price and the market price, is a pretty heavy tax. That is the same rate as I indicated that the major oil companies must pay. I said earlier I know the chairman of our committee, the distinguished Senator from Louisiana, will help us in this effort. He indicated as much in the Chamber during the debate on the conference report.

I believe justice can be done, and I thank the Senator from Oklahoma for his efforts and also that of his colleague, Senator BELLMON as well as the Senator from Wyoming (Mr. WALLOP).

Mr. President, I ask unanimous consent that the text of the proposal be printed in the RECORD.

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

S. 2521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROYALTY OWNER EXEMPTION.

(a) IN GENERAL.—Subsection (b) of section 4991 of the Internal Revenue Code of 1954 (relating to exempt oil) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and", and

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

"(5) Any exempt royalty owner oil.".

(b) ROYALTY OWNER OIL.—Section 4994 of such Code (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(f) EXEMPT ROYALTY OWNER OIL.—

"(1) GENERAL RULE.—For purposes of this chapter, the term 'exempt royalty owner oil' means that portion of a royalty owner's exempt production for the quarter which does not exceed such person's exempt amount for such quarter.

"(2) EXEMPT AMOUNT.—For purposes of this section—

"(A) IN GENERAL.—A person's exempt amount for any quarter is the product of—

"(i) 10 barrels, multiplied by

"(ii) the number of days in such quarter (31 in the case of the first quarter of 1980).

"(B) PRODUCTION EXCEEDS AMOUNT.—If a person's exempt production for any quarter exceeds such person's exempt amount for such quarter, the exempt amount shall be allocated—

"(i) between tiers 1 and 2 in proportion to such person's production for such quarter of domestic crude oil in each such tier, and

"(ii) within any tier, on the basis of the removal prices for such person's domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

"(3) EXEMPT PRODUCTION DEFINED.—For purposes of this section, a royalty owner's exempt production for any quarter is the number of barrels of taxable crude oil—

"(A) of which such person is the producer,

"(B) which is removed during such quarter, and

"(C) which is tier 1 oil or tier 2 oil.

"(4) ROYALTY OWNER.—For purposes of this section, the term 'royalty owner' means any person who is the holder of any royalty or similar interest.

"(5) ALLOCATION WITHIN RELATED GROUP.—

"(A) IN GENERAL.—In the case of persons who are members of the same related group at any time, the 10 barrel amount contained in paragraph (2)(A)(i) for days during such quarter shall be reduced for each such person by allocating such amount among all persons in proportion to their respective exempt production for such quarter.

"(B) RELATED GROUP.—For purposes of this subsection, persons shall be treated as members of a related group if they would be treated as members of a related group under section 4992(e).

"(C) MEMBERS OF MORE THAN 1 RELATED GROUP.—If a person is a member of more than 1 related group during any quarter, the determination of such person's allocation under subparagraph (A) shall be made by reference to the related group which results in the smallest allocation for such person.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 of this Act shall apply with respect to taxable periods ending after February 29, 1980.

By Mr. DURENBERGER:

S. 2522. A bill to amend the Internal Revenue Code of 1954 to extend the exclusion of gain from the sale of a principal residence to individuals under 55 years of age, and for other purposes; to the Committee on Finance.

Mr. DURENBERGER. Mr. President, I am introducing a bill today to amend section 1034 of the Internal Revenue Code relating to the exclusion of gain on sale of a personal residence. The bill eliminates the 55-year-age limitation and the one-time election requirement.

Mr. President, the Congress, in 1978, initiated a much needed first step toward reforming the tax law applicable to the sale of a personal residence.

The Congress believed that the taxes imposed upon an individual with respect to gain realized on the sale or exchange of his or her principal residence were unduly high, especially in view of recent inflation levels and the increasing cost of housing. In certain situations, the nonrecognition provisions of present law operate adequately to allow individuals to move from one residence to another without recognition of gain or payment of tax. However, where an individual has owned a principal residence for a number of years and sells it either to purchase a smaller, less expensive dwelling, or to move into rental quarters, any tax due on the gain realized may be too high.

While the provisions of the law prior to 1978 relating to the exclusion of gain by taxpayers who attained the age of 65, ameliorated this situation somewhat, it was believed that the prior dollar limits and age restriction were unrealistic in view of increasing housing costs and decreasing retirement ages.

The 1978 amendment provided that an individual who has attained the age of 55 may exclude from gross income, on a one time elective basis, up to $100,000 of any gain realized on the sale or exchange of his or her principal residence.

Mr. President, today the current age limitation and one-time election are again unrealistic in light of our efforts to conserve energy. New housing will play a large role in our Nation's ability to successfully implement our energy conservation goals. We must provide incentives to assure that newly built homes will be smaller and more energy efficient.

Nevertheless, our current tax laws go in the opposite direction. As taxpayers are faced with inflationary capital gains on the purchase of a smaller residence they are encouraged to purchase larger and larger residences.

Mr. President, the bill I am introducing would eliminate the disincentive to purchase a smaller residence by providing that the $100,000 exclusion of capital gain be used in part or in total. This provision eliminates the indecision on the part of a taxpayer who may postpone the use of the exclusion until he is sure of its maximum effectiveness. Further, the bill provides that the $100,000 capital gain exclusion can be used by all taxpayers regardless of age. This provision will encourage taxpayers other than those planning retirement to purchase smaller fuel efficient personal residences.

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

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

S. 2522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the section heading and subsection (a) of section 121 of the Internal Revenue Code of 1954 (relating to one-time exclusion of gain from sale of principal residence individual who has attained age 55) are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his

principal residence for periods aggregating 3 years or more.".

(b) Paragraph (1) of section 121 (d) of such Code (relating to property held jointly by husband and wife) is amended by striking out "age, holding," each place it appears and inserting in lieu thereof "holding".

(c)(1) The table of sections for part III of subchapter E of Chapter 1 of such Code is amended by striking out "who has attained age 55".

(2) Sections 1033(h)(3), 1034(1), 1038(e)(1)(A), 1250(d)(7)(B) and 6012(c) of such Code are each amended by striking out "who has attained age 55".

SEC. 2. Subsection (b) of section 121 of the Internal Revenue Code of 1954 (relating to limitations) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) AGGREGATE DOLLAR LIMITATION.—The amount of gain excluded from gross income under subsection (a) for any taxable year shall not exceed the excess of—

"(A) $100,000 ($50,000 in the case of a separate return by a married individual), over

"(B) the amount of gain excluded from gross income under this section for any preceding taxable year.

"(2) GAIN NOT TAKEN INTO ACCOUNT IF SALE MADE BEFORE JULY 26, 1978.—There shall not be taken into account for purposes of paragraph (1)(B) any gain excluded under this section which is attributable to a sale or exchange before July 27, 1978.

SEC. 3. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 2523. A bill to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LONG. Mr. President, the bill I am introducing today, for myself and for Senator J. BENNETT JOHNSTON and others, addresses for the first time the special needs of a very large segment of our merchant marine fleet. This segment is made up of small commercial and special purpose industrial vessels under 1,600 gross tons.

U.S. commercial fishing vessels, coastal and oceangoing tugs, small freight or passenger vessels carrying goods, or people "for hire" in the coastal trade, vessels in the Great Lakes and offshore and inland mineral and oil service boats are among the numerous types of vessels included in that diverse segment of the maritime industry.

The supply vessels that constitute the offshore mineral and oil supply industry are part of a domestic oil and gas production network that has evolved subsequent to the enactment of Federal statutes, principally 46 U.S.C. 404, governing inspection and manning requirements for deep-sea, ocean-going vessels engaged in traditional for hire carriage.

This proposed legislation is designed to clarify and amend certain antiquated manning and inspection statutes which affect such special-purpose vessels. Many of these statutes, written earlier in this century and intended for larger, ocean-going vessels, are clearly excessive in their requirements when applied to smaller commercial vessels.

The version of the bill I am introducing today is identical to the House bill, H.R. 5164, which was favorably reported, 16 to 0, by the Coast Guard and Navigation Subcommittee on November 8, 1979, and unanimously by the full House Merchant Marine and Fisheries Committee on March 19, 1980. It should soon be acted on by the House of Representatives, hopefully without amendment.

Although the House hearings on this bill focused on solutions to problems being experienced by the offshore marine service industry, there are important provisions in this and the House bill which address other problems being experienced by the merchant marine fleet generally. Both before and during the House hearing, the Coast Guard and the Maritime Administration confirmed the scope of the problem. State Marine School spokesmen agreed. All stressed the need for remedial legislation.

The Coast Guard testified that "enactment of this bill as amended (by the Coast Guard and Navigation Subcommittee amendments) would improve safety standards on small vessels * * * particularly mineral and oil service vessels."

A principal purpose of this legislation is to foster the development of career patterns in the maritime industry so that there is a constant influx and progression of licensed, certificated personnel within the ranks of merchant seamen. The fact that some personnel are available does not help the situation, if they are not licensed and certified.

The absence today of career patterns in much of our small vessel merchant marine fleet is the source of the personnel (licensed and certificated) shortages. A 1979 Maritime Administration study pointed out that if existing manning and licensing laws were fully enforced, 36 percent (1,038) of the offshore marine service fleet would have to be laid up. This would have a devastating impact of U.S. energy supplies.

Similar problems would be created for owners, operators, and crew of other small vessels in different trades, that is, fishing vessels, tugs, and other small freight and passenger vessels.

This legislation requires that all small commercial vessels over 15 gross tons will be subject to Coast Guard inspection, manning and licensing requirements. In establishing these requirements, the Coast Guard is directed to:

(1) re Inspection: "take into consideration the characteristics of the vessel, their method of operation, and the service in which they are engaged."

(2) re Manning and licensing: "establish suitable career patterns, and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged."

It should be noted that this legislation does not reduce the number of personnel required aboard these vessels. It only modifies, with U.S. Coast Guard approval, the period of sea service time or other qualifications needed to be tested for advancement to a higher position.

These modifications, which greatly enhance career development potential, apply to small vessels from 15 to 500 gross tons (which favorably affect the career paths of all personnel serving aboard fishing vessels, tugs, mineral and oil service vessels and other small vessels), vessels from 500 to 1,600 gross tons, vessels over 1,600 gross tons (deep sea), and vessels on the Great Lakes.

Inspection of vessels, as well as reasonable manning and licensing requirements for personnel aboard the vessels must be dealt with simultaniously, as this bill does. To illustrate, I would like to quote from a letter addressed to me, dated April 13, 1979, by Rear Adm. Paul Yost, Commander of the 8th Coast Guard District.

It is really difficult to talk about certification (inspection) without considering licensing and manning in almost the same breath. Certification of a vessel triggers the requirements that the vessel be manned by licensed personnel. There are not, at this time, sufficient licensed personnel available in the Gulf to man vessels operated by the offshore industry. Any solution to the certification problem will have to be accompanied by a solution to the licensing and manning problem.

As I have already stated, the bill addresses these problems in an integrated, comprehensive manner, as set forth below.

The bill would require all vessels over 100 gross tons carrying passengers or freight for hire to be inspected under 46 U.S.C. 404. Vessels under 100 gross tons would be moved for inspection purposes to 46 U.S.C. 390, the Small Vessel Inspection Act.

I want to emphasize that this provision of the bill would bring all vessels under inspection. The inspection requirements would be tailored by the Coast Guard to the special circumstances of the method of operation and service in which the vessels engage. This segment of our merchant marine industry has made the point that vessels which carry their own or the charterer's freight or personnel should not be held to the same very high standards as vessels which hold themselves out to the public for common carriage (for hire).

What is required by this segment of the merchant marine is that the Coast Guard be delegated the responsibility to determine the safety needs of these non-common carriage standards on them. The bill does this by providing a new section 46 U.S.C. 404(a) which addresses offshore supply vessels. As long as these vessels carry their own (or the charterer's) freight or personnel, they will not be considered engaged in common carriage or "for hire" operations.

While the vessels remain subject to the inspection standards of either 46 U.S.C. 404 or 46 U.S.C. 390, depending on size, the Coast Guard is directed to establish the inspection standards, taking "into consideration the characteristics of these vessels, their method of operations, and the service in which they are engaged."

Existing offshore supply vessels are also brought under inspection. However,

these vessels will not have to make major structural or major equipment changes unless necessary to "remove an especially hazardous condition." Nevertheless, all vessels which turn 20 years old on or after January 1, 1989, will have to be brought under full inspection compliance or be removed from service.

I want to emphasize that these aspects of the bill do not create a "grandfather" provision for existing vessels so as to exempt them from inspection. Instead, all existing vessels presently operating under U.S. Coast Guard certificate would continue to be inspected fully under title 52 and all other existing vessels would have to pass inspection procedures to be be developed by the Coast Guard.

Finally, all vessels would have to meet full title 52 inspection requirements when they become 20 years old, or be removed from service.

As I stated earlier, shortages of licensed engineers have been identified in industries other than the offshore marine service industry. This bill would ease these shortages by providing that a "licensed engineer and a licensed pilot" would be required on vessels over 300 gross tons. Below this figure, the requirement would be at the discretion of the Coast Guard.

The bill also provides that no offshore supply vessel may be navigated without a licensed deck officer and, if over 200 gross tons, a licensed engineer. Again, the Coast Guard would have the discretion to require a licensed engineer on vessels below 200 gross tons.

Because all offshore marine service vessels will now become subject to inspection, the bill directs the Coast Guard to establish a suitable career pattern for masters, mates, AB's, and engineers within the industry. In classifying licensed officers, the Coast Guard is directed to "establish suitable career patterns and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged."

As a result of the current shortage of qualified personnel, there are currently many individuals filling positions for which they do not have a proper certificate. These individuals are currently safely performing their jobs, and the bill gives the Coast Guard discretion to issue emergency temporary certificates to these individuals until they have qualified formally for the licenses.

The bill, in addition, reduces the minimum age requirements to qualify as an able seaman from 19 years to 18 years of age and creates three categories of able seamen: First, "unlimited"—requires 3 years sea service on the oceans or Great Lakes; second,, "limited"—requires 18 months sea service on oceans, navigable waters of the United States or Great Lakes; third, "special"—requires 12 months sea service on oceans, navigable waters of the United States or Great Lakes.

However, for vessels under 500 gross tons engaged in the offshore marine service industry, the sea service requirement may be reduced to 6 months in oceans, navigable waters of the United States or Great Lakes.

The bill also continues the requirement that 65 percent of the deck crew, exclusive of licensed officers, be able seamen. However, the bill provides that on vessels entitled to use the two-watch system (offshore marine service vessels) this percentage may be reduced to 50 percent.

The serious shortage of 12-month and 18-month able seamen is addressed by the bill through language setting up able seamen clarification and reducing qualifying sea time before a seaman is eligible for a particular rank. The number of seamen aboard the vessel is not reduced, only the qualifying time, and then only where consistent with safety, according to the Coast Guard.

These provisions in the bill will assist in overcoming personnel shortages, and contribute to career pattern development among broad categories of vessels that operate in waters off coastal States (tugs, small freighters, and passenger vessels), in the Great Lakes, where shortages are acute, and in the offshore mineral and oil industry.

Maritime labor asked for sea service modifications in the trades where it benefits and has jobs at stake, that is, the Great Lakes, but it opposed these same modifications for the mineral and oil industry, in which only 2 percent of the fleet is unionized. This bill recommends much-needed changes in both areas.

It is important to note that seamen qualifying for able seaman special category (6 months, based on Coast Guard discretion) for the offshore mineral and oil industry, will not be permitted to use that certificate in any other trade, union or nonunion.

Moreover, union seamen will have the same opportunity to compete for jobs in the mineral and oil industry as any other seaman and the bill is neutral on union organization of previously nonunionized segments of the maritime industry.

By Mr. JACKSON (by request):

S. 2524. A bill to establish the Western Arctic Management Area in Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2525. A bill to establish the Arctic North Slope National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PETROLEUM RESERVE IN ALASKA

Mr. JACKSON. Mr. President, today I am introducing legislation at the request of the administration to establish the Western Arctic Management Area in Alaska and to authorize a private leasing program for the National Petroleum Reserve in Alaska.

I ask unanimous consent that the communication from the President about his proposal be printed in the RECORD at the close of my remarks.

I am also introducing my own proposal for future management of the National Petroleum Reserve in Alaska. My legislation would redesignate that reserve as the Arctic North Slope National Conservation Area to be managed by the Secretary of the Interior through the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976. It would also open up most of the area's 23.680,000 acres to competitive oil and gas leasing.

While both of the bills call for surface management to be accomplished in accordance with the principles of multiple use, my bill would better preserve the concept of the reserve as an important potential petroleum province. While exploration for and development of the oil and gas resources of the Arctic North Slope National Conservation Area would be recognized as the paramount objectives of national policy, my bill would require that these activities be accomplished in such a way as to minimize their impact on the wildlife and other resources values. The concept of a national conservation area would harmonize the region with the similar proposals contained in the Alaska National Interest Lands Conservation Act reported by the Energy and Natural Resources Committee in November 1979.

My bill incorporates many of the provisions of the administration proposal, however, there are several differences:

First. Whereas the administration's proposal would give broad discretion to the Secretary of the Interior to choose from a wide range of competitive bidding systems for the leasing program, my bill would authorize competitive leasing only when the bidding is by sealed bid on the basis of a fixed cash bonus and a variable percentage of net profits to be shared with the U.S. Treasury. The traditional bidding systems utilized in leasing Federal lands for oil and gas exploration and development do not appear to be appropriate to this unique region which was dedicated as a naval petroleum reserve almost 60 years ago and reserved as a probable source of military fuels needed for safeguarding the national security.

Second. The Umiat oil field was discovered during the Navy's exploration program conducted between 1945 and 1952 in the Arctic foothills region of the southeastern part of the reserve. Under my bill, the Umiat field's estimated 70 million barrels of recoverable oil would be developed and produced by an independent, wholly federally owned corporation and would be made available, directly or through exchange to the strategic petroleum reserve. Also, in the event that tracts offered for lease to the private sector fail to attract qualified bidders, this corporation could undertake to explore and develop them.

Third. Whereas the administration's proposed legislation would share 50 percent of the Federal lease revenues from the area with the State of Alaska, my bill would only authorize the payment of an amount equal to 2 percent of the value of the oil and gas production and 2 percent of all other Federal lease revenue received to the Alaska Native Fund—as described in section 9 of the Alaska Native Claims Settlement Act—until such time as the final sum of $500,000,000 has been attained by it from all sources. The remaining 98 percent of the revenues received under my proposed legislation would be paid into the U.S. Treasury for the benefit of all American citizens.

A word about the proposed establish-

ment of an independent Federal corporation is in order. Development of the Umiat oil field and exploration and development activities on any other leased tracts which fail to attract private lessees could be performed by a contract operator as is done under present exploration program being conducted on the national petroleum reserve in Alaska by Husky Oil Co. for the U.S. Geological Survey. Unfortunately, such an approach would only perpetuate the current conflict between the Office of Management and Budget and the Congress concerning the exploration of the reserve.

The obstacles created by the insistence of OMB to stop the Government's exploration program make it impractical and unproductive to continue that form of exploration. With the establishment of an independent wholly Federal-owned corporation to step in and procure the services of a contract operator, OMB could no longer interfere with the formulation of effective exploration, development, and production activities which will be needed in order to gain access to the crude oil resources of the Umiat oil field.

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

STATEMENT BY THE PRESIDENT

Today, I have sent to the Congress legislation calling for a private oil and gas leasing program for the National Petroleum Reserve in Alaska. A vital element of my energy program is to accelerate domestic energy production as a means to lessen our dependence on foreign oil and increase this Nation's energy security. We must make greater use of America's abundant natural resources, including oil, if we are to succeed in our struggle to win the energy fight.

To stimulate increased oil production here at home, I have already decontrolled the price of domestically produced "heavy" crude oil, implemented a phasing out of oil price controls for conventional crude oil, and stepped up the leasing schedule for oil production from the U.S. Outer Continental Shelf. The proposal sent to the Congress today will be another step in our overall plan of accelerating domestic energy production.

The National Petroleum Reserve in Alaska is situated on the arctic north slope of Alaska and in size is larger than the combined acreage of Massachusetts, Connecticut, Vermont, New Hampshire, Rhode Island, and Delaware. My proposal will rename the Reserve the Western Arctic Management Area under the jurisdiction of the Secretary of the Interior's Bureau of Land Management. The area will be managed under the principles of multiple-use.

This region has been the site of substantial government-sponsored oil exploration since 1923. It was in that year that President Harding first set the area aside as a Naval Petroleum Reserve and directed the U.S. Navy to explore and manage the area. Based on the data gathered by the Navy and the Interior Department since then, the Reserve is believed to have promising oil and gas potential, with current estimates projecting an average of 7 billion barrels of oil and 14 trillion cubic feet of gas in place.

It is my belief that exploration and development of these resources can be achieved most quickly and at least cost to the government by a Federally managed private leasing program. I am encouraged by the prospects that this proposal has for bringing into production badly needed domestic oil and gas.

When enacted, the legislation will provide for an accelerated leasing schedule, with the first competitive bids taking place 20 months after passage of the legislation. This is the minimum amount of time required to allow for development of necessary land management plans, environmental assessments, and lease sale preparation.

I am also confident that this legislation contains sufficient protection for the fragile arctic environment found there; because not only does this area of Alaska hold promise for oil development, but it possesses unique surface resources, including magnificent wildlife populations, native cultural and archeological heritage, scenic grandeur and recreational opportunities.

The land use plan which will be developed will direct special attention to these resources and will be designed especially to protect wildlife from adverse effects of exploration and drilling operations.

The proposal is a well balanced one. It will expedite oil and gas development and ensure the protection of the other natural resources of the area. It is in the interests of our Nation's security and I urge early Congressional action on this legislation.

FACT SHEET: OIL AND GAS DEVELOPMENT PROGRAM FOR THE NATIONAL PETROLEUM RESERVE IN ALASKA

The President today sent to Congress legislation calling for a private oil and gas leasing program for the National Petroleum Reserve in Alaska. This legislation fulfills the President's Commitment to submit recommendations to the Congress for the exploration and development of the petroleum resources of the Reserve, as required by the Naval Petroleum Reserves Production Act of 1976.

The proposal sent today provides for an accelerated leasing schedule to bring quickly into production the oil and gas potential of the Reserve, and contains measures for safeguarding the fragile arctic environment, including both the native culture and the significant fish and wildlife resources.

This proposal will contribute to the President's overall energy program by helping to increase domestic energy production. Current estimates for the potential of the Reserve project an average of 7 billion barrels of oil and 14 trillion cubic feet of gas in place. If the Congress passes this legislation this session, the first lease sales should occur by early 1982.

KEY ELEMENTS OF THE LEGISLATION

Redesignation of the entire National Petroleum Reserve as the Western Arctic Management Area under the jurisdiction of the Department of Interior's Bureau of Land Management. The surface resources will be managed under the principles of multiple use as set forth in the Federal Land Policy and Management Act of 1976.

Provision for early oil and gas leasing through an accelerated planning process. The initial land management plan for the Area, including the oil and gas leasing program and an environmental impact statement (EIS), would be completed within 16 months of passage of the legislation. The first lease sale would be required within 20 months of enactment, or four months after completion of the plan and EIS.

Provision for broad leasing authority to the Secretary of the Interior, in coordination with the Department of Energy. A wide range of competitive bidding systems are eligible, including cash bonus, net profit, royalty and work commitment bids. The leasing program could include the flexibility to establish terms and conditions appropriate for the Area, provisions to obtain fair market value for minerals leased, and regulatory authorities needed to protect the environment and the public interest.

Opportunity to lease tracts up to 60,000 acres in size and to arrange initial lease terms for up to ten years.

General authority for the Secretary of the Interior to protect surface and wildlife resources in the whole Area, consistent with multiple use management.

Creation of four special management areas within the Reserve to insure that particular provision is made for protection of the surface resources there. These areas are the Utukok River and Uplands, Teshekpuk Lake area, the Colville River Valley, and Icy Cape/Kasegaluk Lagoon. They contain the most significant surface resources, particularly wildlife habitat, and warrant special protection from drilling operations.

Consultation between the U.S. Fish and Wildlife Service and the Bureau of Land Management during the development, periodic review, and revision of wildlife-related aspects of the plan, with particular attention to the Service's recommendations for the four special management areas.

Periodic review of the land management plan, with allowance for possible future designation of the four special management areas as National Wildlife Refuges. This would occur only after weighing both fish and wildlife values and the results of the leasing program.

Sharing 50 per cent of Federal lease revenues from the Area with the State of Alaska, with a specific requirement for State assistance from those funds to localities affected by leasing activities.

Secretarial discretion for the permitting and leasing of minerals other than oil and gas to the extent consistent with petroleum exploration and development and protection of surface values.

Provision for the interests of Alaska Natives through protection of the subsistence uses of the land and through payments to the Alaska Native Fund. The Fund is the distribution source for monies awarded to Alaska Natives under the Alaska Native Claims Settlement Act and is made up in part from State and Federal oil and gas revenues in Alaska.

Authority to provide access for transportation into and through the Area, in accordance with current legal requirements.

Creation of an Advisory Committee with representatives from the State of Alaska and affected local governments, the Native community, and other interested organizations to assist in land use planning and development of the leasing program.

BACKGROUND

The National Petroleum Reserve in Alaska (NPRA) is a prime example of a frontier region that contains potentially important domestic energy resources. Its 23 million acre expanse is almost entirely wilderness. It is located on Alaska's North Slope and is bounded to the north by the Arctic Ocean and to the south by the Brooks Mountain Range. Its eastern border lies more than 50 miles west of the Prudhoe Bay oil field and the Trans Alaska Pipeline System. In size, the Reserve is larger than the combined acreage of Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, and Delaware.

In 1923, President Harding set this area aside as the Naval Petroleum Reserve No. 4. It was designated as a national defense reserve under the jurisdiction of the Department of the Navy and was viewed as a possible petroleum supply source during a military emergency.

The threat of oil shortages during World War II prompted the Navy to accelerate its petroleum exploration program. The Navy's exploration program resulted in the discovery of the Umiat oil field, estimated to contain at least 70 million barrels of recoverable oil, and minor discoveries of petroleum at other locations. The Umiat field has not yet

been developed. A gas field was also discovered near the village of Barrow, which is currently being operated for local use.

The cost of conducting oil and gas operations in the harsh Arctic environment makes development and production difficult. The figures cited for oil and gas in place in the Reserve are estimates, and the economics of producing any discoveries will be heavily influenced by these conditions. Nevertheless, these figures are more promising than any estimates for the frontier areas of the Outer Continental Shelf.

Passage of the Naval Petroleum Reserves Production Act of 1976 transferred jurisdiction over the Reserve to the Department of the Interior. Further, it required:

a continuation by the Department of the Interior of the petroleum exploration program initiated by the Department of the Navy.

a study by the Department of the Interior of the values and best uses of the lands in the Reserve, exclusive of its potential for oil and gas development. This study was submitted to Congress in April 1979 by the Secretary of the Interior.

a presidential study to determine the best overall procedures for the development, production, transportation, and distribution of the Reserve's petroleum resources. This study consists of an economic, environmental and policy analysis of the area.

These reports were open to extensive public review and helped form the basis of the legislative proposal sent to Congress today.

THE WHITE HOUSE,
Washington, D.C., January 28, 1980.

Hon. HENRY M. JACKSON,
Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 105(b) of the Naval Petroleum Production Act of 1976, I am herewith transmitting a study report, with accompanying legislative recommendations, on procedures for the exploration and development of potentially significant petroleum resources of the National Petroleum Reserve in Alaska. I am also transmitting a report by the Attorney General on the anticipated effects of the proposed legislation on competition, as required by section 106 of that Act.

The study report and the legislative recommendations represent a multiagency effort led by the Department of the Interior to examine alternative resource values and land uses within the 24-million acre Reserve. Extensive participation by the State of Alaska and other interested groups was encouraged.

The legislation I am transmitting provides that the Reserve be redesignated the Western Arctic Management Area and that it be managed under principles of multiple use as set forth in the Federal Land Policy and Management Act of 1976. Existing restrictions on commercial exploration and development of oil and gas resources would be lifted in favor of an environmentally responsible leasing program. Special protection of important wildlife and other natural resources will be provided in the Colville River Valley, Utokok River and Uplands, Teshekpuk Lake, and Icy Cape/Kasegaluk Lagoon areas. An initial lease sale will be held within 20 months of enactment of the proposed legislation.

A more complete description of the important elements of the legislation is contained in Secretary Andrus' letter to me of January 16, 1980, which I am transmitting as an integral part of my recommendations.

This proposed legislation provides a sound and sensitive balancing of energy development with conservation of wildlife and other resources. In my judgment, oil and gas exploration and production from the Reserve can be achieved most quickly and at least cost to the Nation through a Federally managed leasing program. This legislation provides the authority for such a program while retaining appropriate protection for the fragile Arctic ecosystem. I urge early congressional action on the proposal.

Sincerely,

JIMMY CARTER.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR PRESIDENT: I am enclosing a study and a legislative proposal for the management of the National Petroleum Reserve in Alaska (NPR–A) and for a program of oil and gas leasing in the NPR–A. The study and proposed legislation have been reviewed by the Office of Management and Budget and interested agencies and are ready for your transmittal to the Congress.

The Naval Petroleum Reserves Production Act of 1976 (P.L. 94–258: 90 Stat. 303) requires that you submit your proposal, including a study and implementing legislation, for the development of the petroleum resources of the NPR–A to Congress by 1980. The 1976 Act requires that in the development of your proposal you direct a study to determine the best overall procedures for the development, production, transportation and distribution of petroleum resources in the NPR—A (previously designated the Naval Petroleum Reserve Numbered 4).

Responsibility for this study and proposal was assigned to this Department, in consultation with other affected agencies. The Act also directed the Secretary of the Interior to conduct a second study and make recommendations concerning the best uses of the lands in the NPR–A and the designation and management of such lands. This study was completed and submitted to the Congress in April, 1979, although it did not include recommendations for land management of NPR–A, which were deferred pending completion of the petroleum development study.

My legislative proposal incorporates the concepts of both the land use and petroleum development studies (copies of the latter are enclosed) since I believe that, logically, both elements are inseparable and must be integrated into a comprehensive policy to enable effective management, development, and protection of the NPR–A.

Your April, 1979 Energy Address stated that NPR–A would be opened to oil and gas leasing by private companies. The bill clearly directs the early leasing (within 20 months of enactment) of tracts in the Reserve for oil and gas exploration and development by the private sector under a flexible leasing program, while reserving authority in the Secretary of the Interior to protect surface resources, particularly in four geographical areas which have been identified as having specially significant surface resources.

The principal features of the proposed legislation are:

Establishing all of NPR-A as the Western Arctic Management Area (hereinafter referred to as "the Area" for purposes of this letter) with management by the Bureau of Land Management under the principles of multiple use as set forth in the Federal Land Policy and Management Act of 1976 ((FLPMA), (Public Law 94–579, 90 Stat. 2743).

Provisions for early oil and gas leasing through an accelerated planning process. The initial land management plan for the Area, including the oil and gas leasing program and an environmental impact statement, would be completed within 16 months of passage of the legislation the first lease sale would be required within 20 months of enactment.

General authority to protect surface and wildlife resources in the whole Area, consistent with multiple use management.

Creation of special management areas for four areas which possess the most significant surface resources in the Area, the Utukok River and Uplands, Teshekpuk Lake area, the Colville River Valley, and Icy Cape/Kasegaluk Lagoon, to ensure that particular provision is made for protection of those surface resources.

During the periodic reviews of the land management plan, study the lands within special management areas for possible designation as national wildlife refuges, after considering both fish and wildlife values and results of the leasing program.

Consultation with the Fish and Wildlife Service in the development, review, and revision of the plan, with special attention to the Service's recommendations for the special management areas.

Broad leasing authority to the Secretary in coordination with authority vested in the Department of Energy, with a wide range of competitive bidding systems and the flexibility to establish terms and conditions appropriate for the Area, and with provisions to obtain fair market value for minerals leased, and regulatory authorities needed to protect the environment and the public interest.

Sharing of 50 percent of Federal lease revenues from the Area with the State of Alaska with a specific requirement for State assistance from those funds to localities impacted by leasing activities.

A discretionary provision for permitting and leasing of minerals other than oil and gas to the extent consistent with petroleum exploration and development and protection of surface values.

Provisions to benefit Alaska Natives through payments to the Native Fund and continuation of subsistence uses of the lands.

Authority to provide access for transportation into and through the Area in accord with current legal authorities.

Creation of an Advisory Committee with representatives from the State of Alaska and affected local governments, the Native community, and other interested organizations to assist in land use planning and development of the leasing program.

We believe we have struck an appropriate balance between oil and gas development and protection of surface values in the Area. The need for such a balance is clearly recognized in the 1976 Act. Despite strong interests on both sides of the issue, we have avoided providing for a single dominant use in the Area in favor of either oil and gas or surface protection.

I would like to expand briefly on the major aspects of my decision and proposal.

Management options. I considered a range of options for management of the Area. These included continued management as a petroleum reserve with primary emphasis on oil and gas exploration and production, multiple use management under the provisions of FLPMA, management as a wildlife refuge, and designation of certain parts of the Area as parks or wilderness areas. I decided the best approach is multiple use management, with full opportunity for oil and gas leasing but special consideration given to protect the unique surface resources of the Area.

Petroleum resource estimates. As part of the economic study, the Interior Department conducted a preliminary assessment of the petroleum potential of the Area based on an evaluation by experts in the U.S. Geological Survey and using a computer simulation model developed expressly for the Area. This evaluation considered all the data gathered to date in the Government exploration program, including information from 15 wells and over 11,000 line miles of seismic data.

Based on this evaluation, we continue to be optimistic about the potential of the

Area. While there have been no discoveries of commercial quantities of oil and gas, our current estimate is that the 23 million-acre Area contains an average value of 7.1 billion barrels of oil in place and 14.1 trillion cubic feet of gas in place. Of these potential in place resources, under current economic conditions, we estimate an average of 1.9 billion barrels of oil and 3.7 trillion cubic feet of gas could be delivered to market; there is a 5 percent chance that 4.8 billion barrels of oil and 12.9 trillion cubic feet of gas could be delivered. These estimates will be updated as additional data becomes available.

Surface resources. A task force consisting of Federal agencies, the State of Alaska, and the North Slope Borough prepared the land use study, which I submitted to Congress on April 12 of last year. This study lays out in detail the characteristics of the lands in the NPR–A and the primary resource values other than petroleum.

Several major environmental issues are associated with development of the Area: possible impacts on wildlife, especially caribou and waterfowl; effects on Inupiat culture and subsistence lifestyle availability of adequate water and gravel to support operations; direct impacts of construction, such as disturbances to tundra, associated with development; and impact on wilderness values. Specific examples of environmental resources requiring attention include the Western Arctic herd of caribou, which ranges over an area of 140,000 square miles and calves in the Utukok Uplands area from late May until early June, the millions of waterfowl and migratory birds that use the NPR–A and the coastal zone barrier island-lagoon system, and a unique molting area around Teshekpuk Lake.

Some conflict between resource values will inevitably occur; for instance, portions of the four special management areas may overlie promising oil and gas plays in the Area. While we currently have a reasonable idea of the location and magnitude of most of the surface values, knowledge of the subsurface resources, particularly the geographic areas for possible commercial oil and gas production, must be classified as preliminary. It is expected that further careful and more specific geographic delineation of both the petroleum and surface resources will reduce conflicts and will allow more specific local emphasis on oil development in some areas and surface protection in others. Moreover, protective measures developed through our prior experience in the Arctic would be applied to the exploration, development, production, and transportation of oil and gas within the Area. Additional standards will be incorporated as new experience is gained.

The current state of technology to deal with impacts is described in the attached reports.

SIGNIFICANT LEGISLATIVE PROVISIONS AND ISSUES

There are a number of important provisions and issues contained in our proposed bill which I would like to highlight and clarify at this time.

Management plan and environmental impact statement. The Secretary would be required by the bill to prepare a long-range plan for management of the Area. Though comprehensive in scope, the plan could be accomplished in stages in order to accommodate the 20-month deadline for the first lease sale. The initial stage of the plan would have to be completed within 16 months of enactment and would fully identify and analyze the resources and programs considered most significant for the Area and would support the initial actions called for in the plan. The plan could be revised and updated as necessary.

Preliminary forecasts for the initial lease sale indicate a sale of about 700,000 acres, with varied tracts from several different sectors of the Area.

The bill also requires the publication of an environmental impact statement, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (83 Stat. 852) in conjunction with the development of the management plan and the oil and gas leasing program. A final EIS on the initial plan would be required within the 16-month deadline. Full compliance with NEPA would also be achieved with any subsequent amendments to the plan, development of lease tracts, and other action in the Area. The 20-month deadline on the initial lease sale would be conditioned to the extent that no lease sale could be held until publication of the final EIS on the initial plan.

Application of FLPMA. The provisions of FLPMA would apply generally to the management of the Area, with certain specific exceptions for provisions that might unreasonably delay planning and the development of a leasing program and which may not be fully necessary because of extensive study and planning work that has already taken place. The Secretary would have discretion for 5 years to use only those portions of Section 202 of FLPMA, (the planning provisions of the Act) he deems appropriate. It is expected that the section would be utilized in principle, but that some procedural requirements would be waived. The regulations authority in Section 310 would not be applied for 5 years, in favor of the independent regulations authority provided by this bill.

Section 603 of FLPMA, requiring overall wilderness review for public lands, would not be applied to the Area. I decided that wilderness designations should not be applied to the Area at this time and wilderness review requirements would unreasonably delay plans for leasing. The establishment of four special management areas, (the Colville River Valley, Utukok Upland River, Teshekpuk Lake and Icy Cape/Kasegaluk Lagoon) and a procedure for reviewing them for possible refuge status (see discussion below) would provide protection for wilderness values.

Protection of surface resources and special management areas. Surface resources are defined in the bill to include fish and wildlife and their habitats, and historical archeological, cultural, scientific, scenic, and recreational resources of the Area. The long-range management plan for the Area would have to provide generally for protection of surface resources in the whole Area and would have to establish boundaries for, and identify surface resources of, the four special management areas. Within the special management areas, the Secretary would be required to provide "such conditions, restrictions, and prohibitions" as he deems necessary "to avoid reasonably foreseeable and significantly adverse effects on surface resources". The bill recognizes "an abundance of unique surface resources" in the Colville River, Utukok River, Teshekpuk Lake, and Icy Cape areas. In the special management areas the power to prohibit or limit oil and gas activities is provided, with specific reference to caribou calving, polar bear denning, and waterfowl molting seasons, and other special periods for wildlife protection. We expect that any such prohibitions and limitations, if adopted, would be seasonal or otherwise carefully applied to specific times and/or geographical areas.

The initial five-year review of the plan (concluding 6½ years after enactment) would include a study as to whether any lands in the special management areas should be established as units of the National Wildlife Refuge System. The review would include full consideration of fish and wildlife values and of results of the oil and gas leasing program, and would include a determination as to whether fish and wildlife values in those areas predominate over other surface and subsurface values. If there is insufficient data available from the leasing program and the planning process to make such a determination in the initial five-year plan review for any particular lands within the special management area, the study of those lands would be postponed until the earliest subsequent ten-year plan review when sufficient data is available. Recommendations for refuge status would be made to the Congress, and would be made subject to any then-existing leases.

Fish and Wildlife Service role. The Fish and Wildlife Service would be consulted in the development, review, and revision of the plan with regard to all aspects of fish and wildlife protection. The Service would make written recommendations on the special management areas and the Secretary would be required to justify in writing any decisions inconsistent with those recommendations.

Withdrawals. Under the 1976 Act, the NPR–A is withdrawn from all forms of entry under the public land laws, and development and production are prohibited. While necessary for the purposes of that Act, this withdrawal and prohibition will no longer be necessary and will have to be revoked to implement the oil and gas leasing program. A blanket revocation of the withdrawal immediately upon enactment of a new law would potentially leave the Area vulnerable to various land claims or forms of entry under the public land laws which would be inconsistent with the proposed use of the Area; consequently the revocation is established in the bill at 16 months from enactment, in conformity with the period for development of the initial plan, and with authority provided to the Secretary to make such administrative withdrawals as may be found necessary during planning to achieve the management objectives for the Area.

The proposed bill further provides that the Mining Law of 1872 (30 U.S.C., Chapter II) and Section 6 of the Alaska Statehood Act, (72 Stat. 330) shall not apply to the Area. We have provided for discretionary permitting and leasing for minerals other than oil and gas to the extent that exploration and development of other minerals do not conflict with oil and gas operations or with standards for protection of surface resources.

Bidding systems. Because of the very difficult conditions prevailing in the Area, the considerable uncertainties still remaining about the amount and location of oil and gas, and the very high costs of discovering and developing it, we have developed a flexible authority for a variety of bidding systems to establish incentives for expeditious and efficient exploration and development by the private sector. Leasing authority provided by the bill is patterned after existing authorities, particularly the OCS Lands Act Amendments of 1978 (92 Stat. 629) but it would be entirely independent of other leasing authority the Secretary has. A variety of devices, including cash bonus, net profit, royalty, and work commitment bids, or combinations thereof, are allowed. Unitization, pooling, and drilling agreements would be allowed. The Secretary could, under the bill, lease tracts of up to 60,000 acres in size. It is expected that most leases would not approach this size, but the opportunity would be available for larger tracts, which could be useful particularly in the less explored areas and in connection with work commitment bidding. Initial lease terms would be for up to 10 years.

Department of Energy role. With respect to leasing and leasing regulations, the bill provides that the Department of Energy will have the same role in the Area as it has generally under authorities vested and transferred to it by Section 302(b) and (c) and

303 of the Department of Energy Organization Act.

Joint bidding. We have adopted the joint bidding provisions of the OCS Lands Act of 1978 as it modifies Section 105 of the Energy Policy and Conservation Act (89 Stat. 879). This would allow joint bidding except among major oil companies, those having an average daily volume of 1,600,000 barrels a day of production. Extensive discussion and effort went into the development of this provision in OCS Lands Act, and we felt it appropriate to apply the provision here. An exception to allow joint bidding by majors could be obtained if the Secretary finds that extremely high costs or other development problems prevail, and exploration and development will not occur without an exception.

Regulatory and protective provisions. In order to protect against possible harm or waste resulting from exploration and development activity, or from possible abuses or violations of the leasing authority, the bill contains a variety of regulatory and control provisions similar to those contained in existing authority. Exploration and development plans are required prior to commencing any activities under a lease. Leases may be suspended if necessary to allow proper management or to protect against a threat of harm to health, life, property, or the environment. Leases may also be cancelled if serious harm could be caused and for other reasons such as gross negligence or lack of diligence. Substantial civil and criminal penalties are included because of the need to provide for effective enforcement sanctions that would not be readily absorbed as an ordinary cost of doing business. Antitrust review is provided, with provisions very similar to the OCS Lands Act.

Subsistence uses. One of the important purposes of the bill is to provide the opportunity for the continuation of subsistence uses of the Area by local rural residents. Such uses could include fishing, hunting, trapping, or maintenance of subsistence dwellings. The bill specifically provides for the continued use of existing subsistence facilities and for such additions as the Secretary considers necessary. Protection of wildlife as provided in the bill is significant for subsistence purposes.

Access. Inasmuch as access to, and transportation of, any oil and gas resources found in the Area, is as crucial as the discovery and development of it, the bill contains authority for the Secretary to grant rights-of-way in or through the Area under various current authorities, including Section 28 of the Mineral Leasing Act, FLPMA, and Title 23 of the U.S. Code, and through or over wild and scenic rivers, subject to such terms and conditions as may be "appropriate to minimize adverse effects". The Secretary would, of course, consider possible alternatives to crossing of wild or scenic rivers in the course of reviewing right-of-way requests.

Revenue sharing. Alaska Native Fund and State Share. The Alaska Native Fund, established under Section 9 of the Alaska Native Claims Settlement Act (85 Stat. 688), would receive from Federal receipts an amount equal to 2 percent of the value of the production of oil and gas saved, removed, and sold from the Area, and 2 percent of any other Federal revenues from leases in the Area other than for oil and gas, until such time as the $500,000,000 limit in the Fund is reached. This provision is in our bill in recognition of the fact that for the past 8 years payments into the Fund from all authorized sources have lagged behind original expectations and the additional source of funds could help fill the Fund more expeditiously. Payments would continue only until the $500,000,000 Fund limit is reached from all authorized sources. Payments under this bill would not be in addition to the original ceiling.

After Native Fund payments are made, all remaining Federal receipts would be shared equally by the State of Alaska with 50 percent of the revenues going to the State. The State would be required to give priority in allocating those funds to subdivisions and communities most impacted by mineral development under the bill.

Barrow gas. The bill provides for the continuation of a supply of natural gas to the Native Village of Barrow, with the rates adjusted to cost-of-service basis after enactment, and with the further provision that a plan will be developed within 1 years after enactment for the assumption by the State or local government of the responsibility for operation, maintenance, and further development of the South Barrow Field and distribution systems.

State and local participation and the advisory committee. The bill requires that the Secretary provide for effective State and local participation in the planning effort. This includes the establishment of an Advisory Committee with State and local representation, pursuant to Section 309 of FLPMA.

Public participation. In conducting the studies and developing my recommendations, we had extensive public involvement. After the public briefings in August, we had a formal comment period. A number of oil companies, industry groups, environmental groups, and several individual citizens gave us their views. We also asked the North Slope Borough and the State of Alaska for their recommendations on options for future activity. I gave careful consideration to the views of Mayor Hopson and Governor Hammond. We also consulted with the Department of Energy and other Federal agencies. We have also had numerous contacts with the Congress on the proposals.

In conclusion, I urge that you make early passage of this legislation an Administration priority during the next session of Congress. I am convinced that exploration of NPR–A by a number of private companies will provide a better basis for assuring early oil and gas production than will continuation of the Government exploration program based on a single exploration strategy. The legislation will allow exploration and any subsequent development to be conducted within a sound and defensible framework. Assuming passage of this legislation during the next session of this Congress, we will initiate accelerated planning and should be in a position to commence leasing during the early part of 1982.

We will provide whatever assistance is necessary to assure timely consideration of the legislation and study by the Congress.

Sincerely,

CECIL D. ANDRUS,
Secretary.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Section 105 of the Naval Petroleum Reserves Production Act of 1976 (the 1976 Act), 42 U.S.C. § 6505, requires that you submit to the Congress your recommendations concerning the best procedures for the development of the petroleum resources in the National Petroleum Reserve in Alaska (NPR–A). Section 106 of the same Act, 42 U.S.C. § 6506, requires that the recommendations you submit to Congress pursuant to section 105 contain a report by the Attorney General "on the anticipated effects upon competition of such plans and proposals." This letter constitutes the report required by § 106 of the 1976 Act.

As you know, responsibility for preparing the proposal for the development of the NPR–A was delegated to the Secretary of the Interior (Secretary). We understand that the Secretary recently forwarded to you his NPR–A recommendations, and proposed implementing legislation. These materials were at the same time forwarded by the Secretary to the Department of Justice (Department) for purposes of our competitive review. Because the Secretary's recommendations are reflected in the proposed legislation, our analysis is based primarily on that document, but we have studied the underlying reports and recommendations as well in order to understand fully the context in which this legislation is being proposed.

The aspect of the implementing legislation which has particular competitive significance is the proposed transfer of oil and gas development and production rights from the federal government to the private sector. Since effective competition within the private sector will, in general, provide for the most efficient allocation of resources, we concur with this approach. Moreover, particularly in light of the antitrust safeguards included in the proposed implementing legislation, it appears that competitive development of the NPR–A by the private sector is likely. For example, the actual transfers of property from the federal government to the private sector would occur through competitive bidding for leases.

The specific form of bidding would be at the discretion of the Secretary, who could choose any or all of the bidding procedures set forth in the proposed legislation. In addition, the limitations on joint bidding by major oil companies which currently apply to oil and gas leasing on the Outer Continental Shelf (OCS)[1] would also apply to leasing in the NPR–A. Those limitations generally prohibit joint bids among the largest oil companies. Moreover, as under existing OCS lease review procedures,[2] the Department, in consultation with the Federal Trade Commission, would for each sale be required to provide the Secretary with an opinion as to whether the issuance of any lease "may create or maintain a situation inconsistent with the antitrust laws." This standard for antitrust review does not require a finding by the Department that there is a prospective certainty of an antitrust violation. Rather, what is required is an assessment of whether there is a reasonable probability of a contravention of the policies underlying the antitrust laws. We have had considerable experience with the application of this standard not only in the OCS context, but in other areas as well.[3] Finally, regardless of any finding we might make in the NPR–A context concerning the presence or absence of a situation inconsistent with the antitrust laws, we would have at our disposal the full range of antitrust enforcement options. Nothing in this proposed legislation

[1] 42 U.S.C. 6213.

[2] The antitrust review process would be identical to that currently applied to oil and gas lease sales on the Outer Continental Shelf, pursuant to 43 U.S.C. § 1337.

[3] This standard first appeared in the Surplus Property Act of 1944, as amended by Section 207 of the Federal Property Act and Administrative Services Act of 1949, 40 U.S.C. § 488, as "tend to create or maintain a situation inconsistent with the antitrust laws." The 1970 Amendments to the Atomic Energy Act of 1954, 42 U.S.C. § 2135, adopted similar language, as did the Naval Petroleum Reserves Production Act of 1976, 10 U.S.C. §§ 7430–31. *See also* Defense Production Act of 1950 and 1975 Amendments, now 50 App. U.S.C. § 2158; Small Business Act of 1959, 15 U.S.C. § 631, *et seq.*; Energy Policy and Conservation Act, 42 U.S.C. § 6261; Federal Coal Leasing Amendments Act of 1976, 30 U.S.C. § 184(2).

would confer any antitrust immunity or create any antitrust defense.

It is, of course, impossible to predict at this time the competitive impact of any particular NPR–A lease sale that may be held in the future. However, in view of competitive safeguards included in the proposed NPR–A implementing legislation, and assuming that that legislation is enacted into law, we are confident that any NPR–A leasing which may someday occur will likely be conducted in a climate conducive to the competitive process.

Sincerely yours,

JOHN H. SHENEFIELD,
Assistant Attorney General.

By Mr. BAUCUS:

S. 2526. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on certain industrial development bonds the proceeds of which are to be used to furnish railroad transportation; to the Committee on Finance.

LEGISLATION TO RELIEVE GRAIN CAR SHORTAGES

● Mr. BAUCUS. Mr. President, today I am introducing legislation to help relieve the serious problem of railroad car shortages which has plagued grain shippers throughout the country for the past several years.

My proposal is designed to encourage private financing and ownership of railroad facilities, especially rolling stock.

Specifically, this legislation would allow States and their political subdivisions to issue industrial development bonds to finance railroad facilities and equipment including grain hopper cars.

Mr. President, this legislation is particularly important to the State of Montana. Montana's State legislature enacted legislation in 1979 authorizing the Department of Highways to issue and sell railroad rolling stock revenue bonds. The proceeds of these bonds may be used to make loans for financing rolling stock for transporting grain produced in our State.

Interest on bonds issued by States is generally exempt from Federal income taxation. The Internal Revenue Code allows tax-exempt financing of airports, docks, wharfs, mass commuting facilities, and parking facilities through industrial revenue bonds. Unfortunately, railroad facilities and equipment are not eligible for this favorable tax treatment under present law.

Mr. President, our Nation's railroads are suffering from serious capital shortages. Billions of dollars of private financing will be needed just to maintain the present railroad system over the next few years.

The legislation I am introducing today will help strengthen the railroad system by encouraging private investment in railroad facilities through tax-exempt industrial revenue bonds.

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

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

S. 2526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (4) of section 103(b) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out "or" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", or", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) facilities, including rolling stock, for the furnishing of railroad transportation.".

(b) The amendments made by subsection (a) shall apply to obligations issued on or after the date of the enactment of this Act.●

By Mr. CANNON:

S. 2527. A bill to provide for the submission of a plan of rationalization of rail properties of the Consolidated Rail Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, yesterday the Senate passed S. 1946, a bill which will provide a greater degree of regulatory freedom for the railroad industry, yet assure adequate protection for shippers. It is anticipated that these regulatory changes, if utilized by the railroad industry, will improve the financial condition of the industry. Specifically, they should help to improve ConRail's deficit and reduce the amount of subsidy the Government will have to contribute before ConRail can make it on its own. This was only one step however. As regards to ConRail, we need to address some of the other factors which appear to constrain its potential independence as a self-sustaining railroad free from Government subsidy.

With that objective in mind, I am introducing a bill to provide a legislative framework for congressional review and action with regard to the future of ConRail. This legislation will require the U.S. Railway Association, in cooperation with the Department of Transportation and Interstate Commerce Commission, to intensify its review of ConRail's financial situation and future viability and then to submit specific identifiable recommendations to the Congress at the beginning of the 97th Congress.

The bill I am introducing today will require the U.S. Railway Association after public hearings to be conducted by the ICC to submit to the Congress a plan for rationalization of ConRail rail properties, which if not rejected by a joint congressional resolution within a specified timetable, will become effective. At the same time the Association will be required to make a recommendation to the Congress as to the future projected funding requirements of ConRail together with specific recommendations with respect to the future structure and activities of ConRail as the Association determines are necessary or appropriate to meet the goals set forth in section 206(a) of the 3–R Act, together with any specific legislation they feel might be necessary to implement such recommendations.

In order to implement this legislation, the bill recommends that the U.S. Railway Association be given a 2-year authorization through fiscal year 1982. The committee has scheduled public hearings on this legislation and on the Association's authorization request for Wednesday, April 16, 1980.

I ask unanimous consent that the bill be printed in the RECORD

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

S. 2527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of this Act, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "rail properties" means assets or rights owned, leased, or otherwise controlled by the Corporation which are used or useful in rail transportation service; and

(5) "Secretary" means the Secretary of Transportation.

CONRAIL RECOMMENDATIONS

SEC. 2. The Association shall, at the time of submission of a plan of rationalization pursuant to section 5(b) of this Act, but in any event not later than March 1, 1981, make specific recommendations to the Congress with respect to future projected funding requirements of the Corporation. At the time of submission of such plan of rationalization, the Association shall also make specific recommendations to the Congress with respect to the future structure and activities of the Corporation in the Region (as defined in section 102(15) of the Regional Rail Reorganization Act of 1973) (45 U.S.C. 702(15)) as it determines are necessary or appropriate to meet the goals set forth in section 206(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(a)), together with any specific legislation necessary to implement such recommendations.

SUBMISSION OF RATIONALIZATION PLAN BY THE CORPORATION

SEC. 3. Not later than 30 days after the enactment of this Act, the Corporation shall submit to the Association its findings with respect to the rail properties which it will propose (1) for abandonment in accordance with the provisions of this Act, or (2) for transfer for continued operation to another railroad or qualified person, provided that such transfer proposals shall set forth the essential terms and conditions for the transfer.

PRELIMINARY FINDINGS

SEC. 4. (a) Within 90 days after the date of the submission of the Corporation's findings under section 3 of this Act, the Association shall publish in the Federal Register its preliminary findings on such submission. Such findings shall include analyses and conclusions with respect to the abandonments and transfers proposed by the Corporation under section 3 of this Act, and the feasibility of abandoning any rail properties of the Corporation in addition to those proposed by the Corporation pursuant to section (3)(1) of this Act.

(b) The Association shall, on the date of such publication, transmit copies of such preliminary findings to the Congress, the Secretary, the Commission, and the Governor and public utility commissioner of each State in which any such rail properties are located. Upon request, the Association shall furnish a copy of such preliminary findings to any interested person.

PLAN OF RATIONALIZATION

SEC. 5. (a) Within 60 days after publication of the findings of the Association in the Federal Register, the Commission shall invite and afford interested persons an opportunity to submit comments on the prelim-

inary findings of the Association and shall hold hearings at which interested persons may testify regarding such findings. Within such 60-day time period, the Commission shall submit to the Congress and to the Association, and make available to interested parties upon request, a summary and analysis of the evidence received as a result of such comments and hearings, together with its critique and evaluation of the preliminary findings.

(b)(1) Within 60 days after the receipt of the summary and analysis required to be submitted pursuant to subsection (a) of this section, the Association shall consider the comments received with respect to its preliminary findings and submit to the Congress for review, pursuant to section 7 of this Act, a plan of rationalization of the rail properties of the Corporation. The Association shall also submit to the Commission and the Secretary a copy of such plan.

(2) The plan of rationalization shall be consistent with the goals of section 206(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(a)) and shall identify those rail properties which should be (A) abandoned; (B) operated by means of a rail service continuation payment (pursuant to section 304(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)); or (C) transferred as proposed by the Corporation in its submission under section 3(2) of this Act, to a railroad or qualified person for continued operation.

EVALUATION OF PLAN

SEC. 6. Within 20 days after the date of submission of a plan of rationalization to the Congress pursuant to section 5(b) of this Act, the Commission and the Secretary shall submit to the Congress evaluations of such plan.

CONGRESSIONAL REVIEW

SEC. 7. (a) The plan of rationalization submitted to the Congress pursuant to section 5(b) of this Act shall be deemed approved at the end of the first period of 45 calendar days of continuous session of Congress after such date of submission unless the House of Representatives and the Senate adopt a concurrent resolution during such period disapproving such plan.

(b) If such a resolution is adopted by the Congress, the Association shall prepare, determine, and adopt a revised plan of rationalization in accordance with the provisions of section 5(b)(2) of this Act, which shall be submitted to Congress for review pursuant to this section within 60 days of the adoption of such concurrent resolution.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 45-day period.

IMPLEMENTATION

SEC. 8. (a) If a concurrent resolution of disapproval is not adopted pursuant to section 7 of this Act, the Corporation may abandon any of the properties authorized for abandonment in the plan of rationalization without regard to any provisions of title 49 of the United States Code, the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), or the Railroad Revitalization and Regulatory Act of 1976 (45 U.S.C. 801 et seq.): *Provided, however,* That (1) no such abandonment shall become effective until 60 days after the Corporation has issued a notice as specified in subsection (a)(1) and satisfied all of the requirements of subsection (a)(3) of section 10904 of title 49 of the United States Code; and (2) all such properties abandoned shall (A) be subject to the provisions of section 402(a) of the Regional Rail Reorganization Act of 1973 (45 US.C. 762(a)), as amended; and (B) be deemed to have been authorized under section 10903 of title 49 of the United States Code and be subject to the conditions specified by the Commission pursuant to subsection (b)(2) of such section.

(b) If a concurrent resolution of disapproval is not adopted pursuant to section 7 of this Act, the Corporation may transfer to a railroad or other qualified person any rail properties identified for transfer in the plan of rationalization pursuant to section 5(b)(2)(C) of this Act without regard to any provisions of title 49 of the United States Code, the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 701 et. seq.), or the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 801 et. seq.): *Provided, however,* That any transfer under this section shall subject the Corporation and transferee, in each such transfer, to the requirements and other provisions of title V of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 771–779), except that the term "effective date of this Act" contained in such title shall be applied to each such transfer as if it read "effective date of this transfer."

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. Section 214(c) of the Regional Rail Reorganization Act (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are hereby authorized to be appropriated to the Association for purposes of its administrative expenses such sums as are necessary, not to exceed $29,500,000 for the fiscal year ending September 30, 1981, and $27,500,000 for the fiscal year ending September 30, 1982, to remain available until expended.".●

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. MORGAN, and Mr. HELMS):

S. 2528. A bill granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary; to the Committee on the Judiciary.

● Mr. HOLLINGS. Mr. President, the bill I propose today, with the support of Senators THURMOND, MORGAN, and HELMS, grants the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary. Similar legislation, with broad support from the congressional delegations of both States, has been introduced in the House of Representatives.

This measure is the culmination of a long and thoughtful process. In late 1977, the Boundary Commissions for North Carolina and South Carolina held a joint session in Columbia, S.C., and agreed to recommend to their respective States that the lateral seaward boundary between the two States be delimited by extending the landward boundary line to the seaward limits of the States territorial jurisdiction. The recommended agreement was executed on January 20, 1978 and forwarded to the State Legislatures of North Carolina and South Carolina for consideration. The agreement has been adopted by each State in a manner prescribed by its laws.●

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2529. A bill to amend title 39 of the United States Code to apply to subscription and solicitation materials of one conservation publication mailed in bulk by each State the lower third-class rate applicable to matter mailed in bulk by qualified nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

Mr. THURMOND. Mr. President, today, Senator HOLLINGS and I are introducing a bill which is very important to the continued existence of State conservation publications. The bill would permit these publications to mail their subscription renewal notices at the third-class, nonprofit mailing rate.

The special third-class rates presently are available only to the categories of nonprofit organizations specified in law by Congress. The types of organizations eligible for the special rate are now limited to religious, educational, scientific, philanthropic, agricultural, labor, veterans, fraternal, and qualified political committees.

For a period of time beginning in 1976, the Postal Service granted to State conservation publications permission to mail promotional materials at the third-class, nonprofit rate. However, on September 18, 1979, the Postal Service revoked the third-class authorization for the South Carolina Wildlife magazine. The Postal Service defended its action by claiming that the primary purpose of the South Carolina Wildlife and Marine Resources Department, which is responsible for publishing the magazine, was "conservation." Therefore, the publication was not entitled to the special third-class rate, because there is no "conservation" category in the postal rate statute.

We believe that the law should be amended so as to make provision for a "conservation" category. Although the primary purpose of the South Carolina Wildlife and Marine Resources Department may be conservation, it is clear that the magazine itself is "educational" in nature. The magazine is a nonprofit publication dedicated to educating the public about the value of our State's natural resources.

The loss of the third-class mailing rate will cost the South Carolina Wildlife magazine an additional $53,000 a year. In this time of high inflation, the increased postage cost will be extremely detrimental. Furthermore, other State conservation magazines, which presently have third-class ratings, are understandably concerned about the possibility of the Postal Service revoking their mailing privileges. Those magazines which could be affected are the Michigan Outdoors and the Conservationist of New York.

Mr. President, the cost of this legislation is very modest. In terms of revenue forgone by the Postal Service, permitting these three State conservation magazines to mail subscription materials at the third-class, nonprofit rate will cost an estimated $150,000. This sum is small when compared to the $17 billion a year budget for the Postal Service. More importantly, in terms of new impact on the Federal budget, this legislation would result in estimated additional outlays of only $53,000, because the South Carolina

Wildlife Magazine is the only one of the three aforementioned State conservation publications which is presently denied third-class mailing privileges. The cost of permitting the other two potentially affected publications to mail subscription materials at third-class rates is already in the budget.

Mr. President, the South Carolina Wildlife magazine is an excellent publication, having won national awards throughout the years for its high standards and its contributions to conservation and education. It would certainly be a loss if these magazines were forced to cut back on publication and distribution because of a technical interpretation by the Postal Service. We urge every Senator and every friend of conservation and education to support this bill.

Mr. President, I ask that a letter from Mr. Tommy B. Edwards, assistant attorney general for the State of South Carolina, explaining the problems encountered by the South Carolina Wildlife magazine, be printed in the RECORD, at the end of these remarks, together with a copy of the bill.

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

S. 2529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3625(c) of title 39, United States Code, is amended to read as follows:

"(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish and wildlife resources of that State shall be considered—

"(1) a publication of a qualified non-profit organization which qualifies for rates of postage under former section 4358(d) of this title; and

"(2) when mailed in bulk under subsection (e) of former section 4452 of this title, matter mailed in bulk under that subsection (e) by a qualified non-profit organization under subsection (b) of that former section 4452."

THE STATE OF SOUTH CAROLINA,
OFFICE OF THE ATTORNEY GENERAL,
Columbia, S.C., October 24, 1979.

Re South Carolina Wildlife magazine: Revocation of Third-Class bulk mailing rate.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: In accordance with your staff's earlier telephone discussions with the South Carolina Wildlife and Marine Resources Department, I wish to provide you with the following background information regarding the above referenced matter:

South Carolina Wildlife magazine is, of course, a publication of the South Carolina Wildlife and Marine Resources Department. The Magazine is printed by Kingsport Press of Kingsport, Tennessee. In order to avoid further shipping cost after printing, the Magazine is mailed out to subscribers from the Kingsport, Tennessee, post office. In addition to the actual Magazine mailing (which incidentally, is mailed at a special second class nonprofit rate) the department also mails the magazine promotional pieces (such as re-subscription notices, etc.) from the Kingsport post office. The promotional pieces referred to above are a vital and integral part of the entire Magazine effort since the department depends upon these sequential mailings of promotional pieces to maintain our current subscription level as well as attract new subscribers.

Herefore, the department has been allowed to mail the promotional pieces at a special bulk third-class postage rate allowed for "educational non-profit organizations" under Section 632.232 of the Domestic Mail Manual. Several other states besides South Carolina—among them being Michigan and New York—enjoy this special third-class bulk rate educational classification.

Last spring the Magazine's publication's coordinator, Duncan Grant, was advised by the postmaster of the Kingsport, Tennessee post office that South Carolina Wildlife's third-class nonprofit mailing authorization for promotional pieces had been revoked. The reason given for this revocation was that the Magazine's primary purpose was not "educational" within the scope of Section 623.232 of the Domestic Mail Manual. To our knowledge, South Carolina has been the only state among the states enjoying the preferred rate classification to have their third-class bulk rate classification revoked. Following notification of this decision, Mr. Grant initiated a timely appeal to the General Manager of the Domestic Mail Classification Division of the U.S. Postal Services Headquarters in Washington, D.C. On October 9, 1979. Mr. Grant was advised by letter from the Kingsport post office that the original decision to revoke the Magazine's preferred third-class bulk rate had been upheld by the United States Postal Service Headquarters in Washington, D.C. I am enclosing for your review a copy of this "final agency decision" letter from the United States Postal Service Headquarters.

The adverse decision described above will cost the Department approximately $30,000 per year in additional mailing cost which will, of course, work a severe financial hardship upon the Department. Thus, the revocation of the third-class bulk rate will result in either the additional cost having to be passed on to the citizens of South Carolina or having the nationally-recognized qualfty of the Magazine itself seriously threatened.

It is the department's position that South Carolina Wildlife and its related promotionals should certainly be eligible for the preferred bulk mailing rate by virtue of the fact that the Magazine meets the necessary "educational" criteria for the preferred rate as set forth in the postal regulations. Consequently, Duncan Grant and I would greatly appreciate the opportunity to meet with members of your staff and review the pertinent postal service regulations as they relate to the situation outlined above and, further, to solicit your assistance in attempting to rectify what the department considers to be a highly arbitrary and erroneous ruling by the postal service.

Thank you for your consideration.

Very truly yours,

TOMMY B. EDWARDS,
Assistant Attorney General.

By Mr. CANNON (by request):

S. 2530. A bill to improve the fairness and equity of the protection provided to railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 701 et seq.); to the Committee on Commerce, Science, and Transportation.

RAILROAD EMPLOYEE PROTECTION MODIFICATION ACT OF 1980

● Mr. CANNON. Mr. President, today I am introducing by request of the Department of Transportation, legislation to revise the labor protection program under title V of the Regional Rail Reorganization Act of 1973. This program affords certain compensation guarantees to the former employees of the Northeast and Midwest bankrupt railroads that were formed into the Consolidated Rail Corporation. In addition to providing for an increased authorization of $235 million, this new legislation will make certain changes in the benefit provisions of the current program.

Mr. President, this current program was first authorized at $250 million. It represented the recommendation of railroad management and labor of the cost of protecting employees either displaced or adversely affected as a result of the conveyance of the predecessor lines to ConRail.

It now is apparent that, under the provisions of the current program, all of the authorized funds will be depleted during this calendar year. ConRail bears the legal and financial responsibility for protective benefits under title V. ConRail may therefore have to divert funds normally used for rehabilitation and improvements to funding the excess protective costs if a supplemental authorization is not made.

Mr. President, the Committee on Commerce, Science and Transportation will examine this important legislation at the earliest moment after the Easter recess. I ask unanimous consent, Mr. President, that the text of the bill, along with the Secretary's letter of transmittal and section-by-section analysis of the bill be printed in the RECORD.

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

S. 2530

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 "Railroad Employee Protection Modification Act of 1980".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that the original provisions designed to protect railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) against deprivation of employment and reductions in railroad-related compensation contain inequities; that these inequities hinder the Consolidated Rail Corporation from achieving improved management of certain protected employees in its workforce; and that elimination of these inequities would help reduce the cost levels of the Consolidated Rail Corporation, and thereby improve the Corporation's ability to provide carriage of goods in interstate commerce.

(b) It is declared to be the purpose of the Congress in this Act to foster fair and equitable labor protection for certain railroad employees; to foster improvements in the ability of the Consolidated Rail Corporation to manage productively such employees in its workforce; and to help reduce the cost levels of the Consolidated Rail Corporation by eliminating the inequities of the labor protection provisions, thereby improving the Corporation's ability to provide carriage of goods in interstate commerce by—

(1) revising the cash allowances for protected employees under title V of the Regional Rail Reorganization Act of 1973 to ensure that the employees receive a reasonable level of protection; and

(2) improving the ability of the Consolidated Rail Corporation to train or retrain certain protected employees for bona fide job vacancies.

(c) Nothing in this Act is intended to affect any law, regulation, court order, or obligation pertaining to equal employment opportunity.

MONTHLY DISPLACEMENT ALLOWANCE

SEC. 3. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 775 (b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to his or her compensation, in accordance with the following:

"(1) Protected employees occupying positions in the non-operating crafts: Effective on and after January 1, 1980, the protected rate of pay of a protected non-operating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to his or her compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the aforesaid rate, and will be the actual hourly rate for hourly-rated employees; the daily rate divided by eight for daily-rated employees; and the monthly rate divided by the working days in the claim month, further divided by eight in the case of monthly-rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(A) In the event a protected employee's position is abolished or he or she is displaced, and the employee is thereby required to occupy a position paying a lesser hourly rate than the employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position the employee is occupying and his or her guaranteed hourly rate for all hours included in the straight time work schedule of the employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(B) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid his or her guaranteed hourly rate for the number of hours the employee would have worked in the straight time work schedule of his or her previously held position.

"(C) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become his or her protected rate.

"(2) Protected employees occupying positions in the maintenance-of-way crafts: Notwithstanding subsection (b)(1), effective on and after January 1, 1980, a protected maintenance-of-way employee shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date (as used in this subsection (b), "average monthly compensation"), but subject to a "maximum", which maximum is defined as the employee's average monthly compensation divided by his or her average monthly time paid for, and further multiplied by 174 hours, or by his or her average monthly time paid for, whichever is less. If the average monthly compensation of a protected maintenance-of-way employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing the employee's monthly displacement allowance, if any. If a protected employee is deprived of employment or if the employee's compensation in his or her current position is less in any month than the employee's average monthly compensation or the maximum, whichever is smaller, the employee shall be paid 75 per centum of the difference between his or her earnings if any and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual compensation (excluding overtime compensation earned by virtue of actually working in excess of two hours at the punitive rate of pay on any given day), monthly displacement allowance payments, and offsets applicable pursuant to this title is less than the employee's average monthly compensation subject to the maximum and multiplied by twelve, the employee shall receive an additional payment representing the difference. In the computation of the monthly and the annual displacement allowance payments, earnings shall not include compensation received for overtime actually worked in excess of two hours at the punitive rate of pay on any given day. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(3) Protected employees occupying positions in the operating crafts: Effective on and after January 1, 1980, a protected operating employee (defined as any protected employee in ICC classifications 107 through 128) who has been deprived of employment or adversely affected with respect to his or her compensation shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date, but subject to a "maximum", which maximum is defined as one-twelfth of the average annual earnings per employee, computed by cumulating the employee earnings reported to the Interstate Commerce Commission by the Corporation on a monthly basis for calendar year 1977 for the ICC classification of operating service in which the employee performed the preponderance of his or her work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the ICC classification will be determined by the preponderance of the employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing his or her monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than the maximum, the average monthly compensation of the employee will be used to compute his or her monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his or her compensation such that the compensation in his or her current position is less in any month than the average monthly compensation of the employee or the maximum, whichever is smaller, the employee shall be paid 75 per centum of the difference between his or her earnings if any and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than his or her average monthly compensation subject to the maximum and multiplied by twelve, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an ICC classification with a lesser maximum than the maximum applicable to that employee's 1974 IC classification, the employee shall be paid the difference without credit being taken for compensation earned by virtue of actually working hours in the calendar year in excess of the number of hours paid for in the employee's average monthly compensation multiplied by twelve or his or her annual 1977 maximum, whichever is smaller. An employee's compensation for purposes of this subsection will not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(4) Protected employees occupying non-contract positions: Effective on and after January 1, 1980, a protected non-contract employee who has been deprived of employment or adversely affected with respect to his or her compensation shall retain his or her average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to such date. In the event such non-contract employee exercises or has exercised seniority in a craft or class of operating employees, the employee's entitlement to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such non-contract employee exercises or has exercised seniority in a craft or class of non-operating employees, the entitlement of the employee to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be consistent with the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority, rather than the rate of any position held on or prior to September 1, 1979.

"(5) Notwithstanding the preceding provisions of this subsection, employees who, prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to section 505(d) of the Act, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to January 1, 1980.

"(6) In determining compensation in his or her current employment, the protected employee shall be treated as occupying the position producing the highest rate of pay to which his or her qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered

to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to his or her average monthly compensation subject to the maximum.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any outside earnings of the employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and the employee's representative shall be furnished with the protected employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment, or his or her representative, and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by the employee and the earnings of such employee in employment other than with the employer.".

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 4. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 775 (c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall continue until the attainment of age 65 by a protected employee with 5 or more years of service on the effective date of this Act and, in the case of a protected employee who has less than 5 years of service on such date, shall continue for a period equal to the employee's total prior years of service: *Provided*, That such monthly displacement allowance shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause; shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of the employee's seniority rights in accordance with the provisions of this section; shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (provided that the payment of monthly displacement allowances shall be resumed upon termination of the emergency); shall not be paid with respect to any month that commences after the effective date of the Railroad Employee Protection Modification Act of 1980 for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee, or his or her representative, and the employer) after the last day of the month for which such allowance is sought; and the entitlement of an employee to an allowance shall be approved or denied within 150 days (unless otherwise agreed upon by the employee, or his or her representative, and the employer) after the claim therefor is made.".

TRAINING AND TRANSFER

SEC. 5. (a) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 755(d)(4)) is amended to read as follows:

"(4) Transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation shall determine the number of junior qualified protected employees deprived of employment (not to exceed 4 employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed 4 employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment on the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employee(s) deprived of employment (not to exceed 4 employees per offer) on the system, in accordance with the procedure in paragraph (4)(A) of this subsection. Employees offered transfer pursuant to this paragraph (4)(B) will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in a marine craft or class on the Corporation's system, or in the craft or class of a Penn Truck Lines, Inc. employee, the Corporation may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation shall first attempt to locate a comparable position in a seniority district which encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to paragraph (4)(A) of this subsection. If no such position exists, the Corporation may tender the employee a transfer notice involving a position elsewhere on the system pursuant to paragraph (4)(B) of this subsection. In the event it is necessary to train an employee after his or her acceptance of a position pursuant to this subsection, such training shall be provided by the Corporation at no cost to the employee ".

(b) Section 505(1)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 775 (1)(1)) is amended by adding the following immediately before the last sentence of the subsection: "The Corporation may simultaneously offer a position to not more than 4 protected non-contract employees. The position will be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer will retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, AUDIT AND REPORT

SEC. 6. Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 779) is amended to read as follows:

"PAYMENT, AUDIT AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Railroad Employee Protection Modification Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacements operators, and acquiring railroads, of the amounts paid such employees: *Provided*, That the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after enactment of the Railroad Employee Protection Modification Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board and the Association in the performance of their functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board and the Association.

"(b) AUDIT.—Commencing October 1, 1980, the Association is authorized and directed to audit the payment of benefits pursuant to this title and to evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances, including the manner in which the Corporation manages the overtime worked by maintenance-of-way employees. Such audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such audit and evaluation.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances.".

TECHNICAL AMENDMENTS

SEC. 7. (a) The Table of Contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 701 et seq.) is amended by revising the caption "Sec. 509. Payment of benefits" to read "Sec. 509. Payment, audit and report".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 702 (16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 711) is amended by—

(1) revising subsection (d)(2) to read as follows: "(2) three Government members, who shall be the Secretary, the Chairman of the Commission, and the Secretary of the Treasury, acting directly or at any time through their respective designated representatives and, in the case of the Chairman, through the Vice Chairman of the Commission; and";

(2) striking "Deputy Secretaries" from the first sentence of subsection (i) and inserting in its place "designated representatives"; and

(3) striking the first sentence from subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 771) is amended by—

(1) adding to paragraph (6) after "disability," in the last sentence "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) striking "and" after the semicolon in paragraph (10), striking the period after paragraph (11) and inserting in its place "; and", and adding the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 777) is amended by adding after "section 504(d)" the phrase ", section 509(b), section 509(c)".

EFFECTIVE DATE

Sec. 8. The provisions of this Act shall take effect on January 1, 1980.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 18, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am enclosing a bill "To improve the fairness and equity of the protection provided to railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 701 *et seq.*)."

This bill will improve the labor protection program that now provides benefits to the former employees of the Northeast and Midwest bankrupt railroads by reducing the opportunity for protected employees to receive excessive compensation guarantees, by allowing the Consolidated Rail Corporation to retrain and transfer some protected employees, by authorizing the appropriation of $235 million in additional Federal funds to pay revised benefits to protected employees, and by directing the United States Railway Association to monitor program performance.

BACKGROUND AND NEED

The title V labor protection provisions were enacted in the Regional Rail Reorganization Act of 1973 for the benefit of employees of the Penn Central Transportation Company and the other Northeast and Midwest bankrupt railroads in anticipation of the restructuring that produced the Consolidated Rail Corporation. The level of benefits specified in the original legislation was recommended by representatives of railroad management and labor who negotiated the benefit provisions at the request of Secretary of Transportation Claude Brinegar. The recommended provisions evolved from the employee protection conditions then applicable to railroad mergers, which included lifetime protection in the case of some Penn Central employees.

When the Congress decided to enact into law these recommended provisions for employee protection, it authorized $250 million for the program ". . . in order to provide an incentive to the Corporation [Conrail] not to exceed the amount authorized to be appropriated for reimbursement, with the intent that if exceeded, the Corporation, not the Federal Government, would be required to bear such expense." H. Rep. No. 744, 93rd Cong., 1st Sess. 72 (1973). It is now projected that the title V funds will be depleted in the first quarter of calendar year 1980, due largely to the selection of an income guarantee equal to an employee's 1974 compensation (a year in which many employees worked more than normal amounts of overtime) as well as the fact that fewer Conrail employees have separated than had been projected.

Conrail faces a continuing responsibility to make labor protection payments under the existing provisions of title V of the 3R Act. Based on discussions with the management of Conrail and representatives of the affected protected employees, the Department believes it is time to reexamine the title V labor protection legislation with a view toward providing additional Federal funding only if it is tied to a more reasonable level of protection for currently-protected employees and a monitoring procedure. The management of Conrail considers the $235 million additionally authorized under the enclosed bill as adequate to fully fund the program and has made a commitment, which is reflected in the bill, that the corporation will bear title V protection costs for its employees in excess of the $235 million.

PRINCIPAL CHANGES TO THE EXISTING LAW

Under existing law, employees of the railroads in reorganization that transferred properties to Conrail on April 1, 1976 are entitled to protection against reductions in compensation and deprivation of employment. Conrail is obligated to make these payments in most instances and is then reimbursed from appropriated funds by the Railroad Retirement Board. The bill maintains these principles, but changes the level of protection provided in the following ways:

1. An employee's compensation "guarantee" is changed from the total compensation received by the employee for 1974 to distinct guarantee formulas for union labor in the nonoperating, maintenance-of-way and operating crafts and for non-contract employees. These formulas will keep compensation guarantees within the range of earnings for a typical employee who works a normal work schedule.

2. Labor protection allowances will not be paid with respect to periods of *force majeure* such as floods, snowstorms and strikes.

3. Protected employees who are in the marine crafts or who were Penn Truck Lines, Inc. employees can be retrained and transferred for bona fide job vacancies in other crafts, since no bona fide vacancies exist for these individuals in their present crafts. Note that the transfer provisions in the bill do not apply to the National Railroad Passenger Corporation (Amtrak), even though about one-third of Amtrak's employees are protected under title V. When discussions on this subject between Amtrak management and its employees are concluded, I will propose further amendments to title V as necessary.

4. Authorized Federal funding for the title V program will increase by $235 million (of which up to $180 million could be spent on monthly displacement allowances) to a revised level of $485 million. Should the cost of title V employee protection exceed this revised funding level, each carrier would be responsible for paying title V benefits to its protected employees without reimbursement from the Federal Treasury.

IMPACT ON THE ENVIRONMENT

Because the proposed legislation revises an existing compensation guarantee program, no significant adverse impact on the environment is anticipated.

The Office of Management and Budget has advised that submission of this bill is consistent with the Administration's program.

Sincerely,

NEIL GOLDSCHMIDT.

SECTION-BY-SECTION ANALYSIS OF THE RAILROAD EMPLOYEE PROTECTION MODIFICATION ACT OF 1980

Sec. 1. This section sets out a short title for the Act.

Sec. 2. Findings and Purpose.

Subsection (a) recites the findings of Congress that the original provisions designed to protect railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq.*) against deprivation of employment and reductions in railroad-related compensation contain inequities; that these inequities hinder the Consolidated Rail Corporation from achieving improved management of certain protected employees in its workforce; and that elimination of these inequities would help reduce the cost levels of the Consolidated Rail Corporation, and thereby improve the Corporation's ability to provide carriage of goods in interstate commerce.

Subsection (b) declares it to be the purpose of the Congress in this Act to foster fair and equitable labor protection for certain railroad employees; to foster improvements in the ability of the Consolidated Rail Corporation to manage productively such employees in the workforce; and to help reduce the cost levels of the Consolidated Rail Corporation by eliminating the inequities of the labor protection provisions, thereby improving the Corporation's ability to provide carriage of goods in interstate commerce by (1) revising the cash allowances provided to protected employees under title V and (2) improving the ability of the Consolidated Rail Corporation to train for productive jobs certain employees who have been deprived of employment.

Subsection (c) ensures that nothing in this Act compromises equal employment opportunity programs covering the Corporation or other employers entitled to reimbursement under title V.

Sec. 3. Monthly Displacement Allowance.

Existing Law. Under current law, a protected employee's monthly displacement allowance (MDA) is computed by first determining his average monthly compensation and his average monthly time paid for as follows:

(1) The employee's total compensation for calendar year 1974, adjusted for general

wage increases, is computed. This figure includes compensation for straight time, overtime, constructive allowances and holiday and vacation pay, and other compensation such as penalty payments and merger protection payments. Total compensation is then divided by 12 to derive the employee's average monthly compensation, which is the employee's compensation "guarantee." The employee is entitled to receive monthly, unless he misses work, an amount equal to his average monthly compensation.

(2) The employee's total time paid for is also computed for calendar year 1974 as the sum of his or her straight time paid for, overtime paid for (converted to its straight time equivalent), and hours attributable to other payments such as constructive allowances, holiday and vacation pay, and penalty payments and merger protection payments. This figure is divided by 12 to derive the employee's average monthly time paid for.

Once a protected employee's average monthly compensation and average monthly time paid for are determined, his MDA is computed and paid as follows:

(1) In any month that his compensation is less than his average monthly compensation, the employee receives an MDA which is equal to the difference.

(2) In any month that the employee works more hours than his average monthly time paid for, he or she receives an MDA equal to the excess (if any) of his or her average monthly compensation over the compensation he would have earned had he worked only his average monthly time paid for.

The funds originally authorized for the program were exhausted during the first quarter of calendar year 1980. One of the reasons for the high cost of the program is the extraordinarily high amount of overtime apparently worked in 1974 by certain protected employees, the year on which the average monthly compensation formula is based. Consequently, the average monthly compensation figures for these employees exceed what would be considered "normal" compensation and hourly figures. This has permitted many more employees to receive MDAs, and to receive higher MDAs, than had been forecast at the start of the program.

Proposed Modifications. This legislation would address the problem of unusually high overtime figures in 1974 by changing the formula for computing average monthly compensation. Currently an employee's "guarantee" is based on his total compensation. The proposed amendments substitute four guarantee calculations for the formula described above.

Description of Modification. Section 3 redefines a protected employee's guarantee as follows:

(1) Non-operating employees: Except for maintenance-of-way employees, non-operating employees (i.e., other than train and engine service employees) will receive an hourly guarantee, based upon the rate of pay of the position they held on September 1, 1979. This guarantee will be increased to reflect subsequent general wage increases, and will be increased whenever the employee, in the exercise of his or her seniority, becomes the qualified incumbent of a higher rated position. If, as a result of a reduction in the number of positions available, a protected employee is required to exercise seniority to a position with an hourly rate less than the guarantee, he or she will receive a monthly guarantee payment representing the hourly differential multiplied by the number of hours in the new position's straight time work schedule for the claim month. If a protected employee is unable to retain any position, he or she will receive the guaranteed hourly rate for the number of hours the employee would have worked on a straight time basis if he or she had retained his or her previous position.

(2) Maintenance-of-way employees: Maintenance-of-way employees often work as portable equipment operators in the summer when extensive track rehabilitation is undertaken, and as trackmen in the winter when only routine maintenance can be performed. As a result of this circumstance, maintenance-of-way employees frequently earn less than their average monthly compensation in the winter and more than their average monthly compensation in the summer. When monthly displacement allowances during the winter months are added to these earnings, the employee's actual annual compensation can well exceed his or her annual compensation guarantee.

In order to correct this situation, a separate calculation is proposed for maintenance-of-way employees. Each protected employee will be assigned a monthly guarantee equal to his or her 1974 average hourly earnings on a straight time basis, upgraded by subsequent general wage increases, and multiplied by 174 (i.e., the number of hours in a straight time work schedule in the average month). If a protected employee's current monthly guarantee is less than this value, the current guarantee will be retained. If, in any month, a protected employee's earnings are less than the guarantee, a payment will be due equal to 75 percent of the difference. At the end of the calendar year the employee's annual guarantee will be compared to his or her annual earnings plus monthly guarantee payments and any offsets. If the annual guarantee is larger, the full difference will be paid. If the annual calculation demonstrates that all or a portion of the monthly guarantee payments represent an overpayment, the employee will be entitled to no further guarantee payments until the overpayment is recovered. In the calculation of guarantee payments on the monthly and the annual basis, earnings include overtime earnings received as a result of working up to two hours at the overtime rate on any given day.

(3) Operating employees: It is proposed that operating employees (i.e., train and engine service employees) retain their current monthly guarantees subject to two important modifications. Average 1977 Conrail earnings will be calculated for each ICC classification of operating employees. These values will be upgraded by subsequent general wage increases, and will constitute maxima. Those protected employees whose current monthly guarantees exceed the applicable maximum will have their guarantees reduced to the maximum. The second modification is an annual calculation in accordance with the maintenance-of-way formula described above. If a protected employee's earnings are less than the guarantee in any month, 75 percent of the difference will be paid. At the end of the calendar year, a comparison of guarantee and earnings on an annual basis will determine whether an additional payment will be made or whether payments will be withheld pending recovery.

(4) Non-contract employees and employees who have been transferred: No change is proposed in the guarantee formula currently applicable to these employees. Non-contract employees receive salaries which do not include overtime compensation. Additionally, they receive merit increases rather than general wage increases, so that their guarantees have not changed since the formation of Conrail. Consequently, they have not been the recipients of "windfall" payments as is the case with contract employees.

Transferred employees retain their current guarantee. They have frequently purchased new homes at a price reflecting the standard or living they thought they were assured of on the basis of the current guarantee formula. A sudden reduction in their monthly income might place them in an untenable financial position. There are approximately 350 employees who have transferred.

There are two other changes made in this section. Under subsection (b)(7), in addition to all unemployment compensation benefits and railroad earnings being set off against the employee's MDA (as under existing law), all outside earnings of a protected employee deprived of employment must be set off against the employee's MDA (rather than 50 per centum). This change will ensure that the MDAs of such protected employees are fully offset by other compensation.

An additional change is made by this section in proposed subsection (b)(10). It calls for employees deprived of employment, or the employees' class or craft representative, and the employer to agree on a procedure by which such employees will report their non-railroad earnings in order that they may be set off against MDAs. It also calls for an agreed upon procedure by which the employer is kept apprised of the unemployment benefits currently paid to employees deprived of employment, also for the purpose of off-setting their MDAs. These procedures are necessary to ensure that the reporting/investigative burdens are shared by the employer and the employees, rather than having the burden of investigation fall solely on the employer, as now exists.

Sec. 4. Duration of Monthly Displacement Allowance.

Existing Law. Under current law, an employee who had five or more years of service as of January 2, 1974 is eligible to receive MDAs until the employee reaches age 65. An employee who had fewer than five years of service as of January 2, 1974 is eligible to receive MDAs for a period equal to the period he or she has been an employee. MDAs terminate in the event a protected employee dies, retires, resigns or is dismissed for cause. MDAs are suspended for the period of disciplinary suspension for cause; failure to work due to illness, disability, or voluntary furlough; and failure to take or keep a position available through the exercise of seniority rights.

Description of Proposed Modifications. This legislation would restrict the payment of the MDA in two situations. First, a protected employee's entitlement to an MDA would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, floods, snowstorms, and similar natural occurrences. Second, the legislation would require a protected employee to claim an MDA within three months of entitlement and would require that entitlement to claims be approved or denied within 150 days after a claim is filed, unless the employee and the employer agree upon other time frames for filing and determining claims. This provision will eliminate bookkeeping problems caused by delay in filing a claim for an MDA, and enable the Corporation to assess more accurately expected payments for labor protection.

Sec. 5. Training and Transfer.

Existing Law. Subsection 505(d) of the current law sets out transfer procedures by which the Corporation may require a protected employee deprived of employment to transfer to a bona fide vacancy within the employee's class or craft. These provisions have restricted the Corporation's attempts to utilize its manpower more effectively in several ways. For example, by not authorizing the Corporation to transfer to another class an employee who has been deprived of employment, existing law forces the Corporation to lay off workers in over-populated classes and to hire employees in under-popu-

lated classes. The Corporation thus pays twice (by giving MDAs to those who are not working and paying wages to those who have been hired), rather than once (by transferring the person who had been laid off in one class to the vacancy in another class). In addition, existing law prevents the Corporation from transferring employees whose jobs have been abolished to new positions where manpower can be productive.

Proposed Modifications. This legislation addresses restrictions on manpower utilization by permitting the Corporation to transfer employees in the marine crafts and unemployed Penn Truck Lines, Inc. workers to another class, and by offering retraining programs to make the inter-class transfer provisions meaningful.

Description of Modifications.

The new training and transfer provisions would apply to unemployed Corporation employees in the marine crafts and unemployed Penn Truck Lines, Inc. employees. No bona fide vacancies exist for these employees in their class or craft. Consequently, their guarantee payments represent a considerable ongoing liability.

Training expenses would be paid for by the Corporation, which could then be reimbursed from the Regional Rail Transportation Protective Account. Moving expenses incident to transfers would be reimbursable under the provisions of section 505(g), as is the case under existing law.

Finally, the proposed legislation establishes procedures that permit the Corporation to expedite reassignments by making simultaneous offers of a vacancy to no more than 4 employees at a time (those contacted employees junior to the least senior employee who accepts the vacancy will be furloughed or severed).

Sec. 6. Payment, Audit and Report.

Existing Law. Under current law, the Corporation (and where applicable the Association, replacement operators, or acquiring railroads) is responsible for making payments under this title to protected employees. The Corporation then certifies these paid amounts to the Railroad Retirement Board, which reimburses the Corporation in full up to a total amount of $250,000,000. The Railroad Retirement Board has no statutory authority to audit or evaluate the employee protection program.

Also under existing law, no one is formally charged with the task of evaluating the program with a view toward improving the program or encouraging the Corporation to improve the management of its workforce. It is important, therefore, to ensure that some agency or body has statutory authority to both audit the program and evaluate the effectiveness of the employee protection program. The Association, which has pending the outcome of the study of its future, which has been mandated by Congress, should be given this function.

Description of Proposed Modifications. This section would redesignate section 509 of the 3R Act as section 509(a) and increase the amount of funds authorized to be appropriated under title V by $235,000,000 (of which up to $180,000,000 could be spent on MDA's) to a new authorization level of $485,000,000, make training costs incurred by the Corporation under revised section 505(d)(4)(D) reimbursable costs, direct the Secretary of Transportation to be responsible for requesting needed appropriations for expenditure by the Railroad Retirement Board, and additionally authorize the appropriation of funds for administrative expenses incurred by the Railroad Retirement Board and the Association in performing their functions under section 509. The appropriations may be allocated by the Secretary to the Board and the Association.

It is proposed that an additional $235 million be authorized to fund the revised level of benefits afforded by these amendments. Conrail projects that this sum will fund the program. If in fact the cost of the program exceeds an additional $235 million, the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that impose auditing and reporting responsibilities upon the Association. Section 509(b) would direct the Association to audit the payment of benefits under title V and evaluate the effectiveness of the provisions of title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in its workforce. In conducting the program audit, the Association should be particularly sensitive to the impact of title V provisions upon management policies, so that the Association will be able to suggest corrective legislation quickly in the event inequities are uncovered in the program or the way that the Corporation administers the program.

The Association would be afforded access to pertinent documents for the purpose of facilitating its audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Sec. 7. Technical Amendments.

Subsection (a) makes technical changes to the table of contents of the Regional Rail Reorganization Act of 1973.

Subsections (b) and (c) permit the Secretary of Transportation and the Secretary of the Treasury to delegate their responsibilities under the 3R Act, including membership on the Board of Directors of the United States Railway Association and its committees, to designated representatives.

Subsection (d) amends the definition of "deprived of employment" in subsection 501(6) to exclude from the definition, and thereby exclude from coverage under the protection program consistent with changes made in section 4 of this legislation, failure to work due to Acts of God. Subsection (d) also adds a definition of "compensation" to section 501 so that it is clear the word means only earnings in employment subject to the Railroad Retirement Act rather than such earnings plus earnings from non-railroad employment and compensation for personal injury claims against the employer.

Finally, subsection (e) clarifies that the arbitration provisions that apply to disputes between the Corporation and its employees regarding the interpretation of title V provisions do not restrict the newly-created audit and reporting responsibilities of the United States Railway Association.

Sec. 8. Effective Date.

This section gives the effective date of this Act as January 1, 1980. However, the authorization of appropriations for such sums as may be necessary for the Association to carry out its responsibilities under section 509 of the Regional Rail Reorganization Act of 1973 does not become effective until fiscal year 1981.●

By Mr. PELL (for Mr. CHURCH) (by request):

S. 2531. A bill to amend the United Nations Participation Act, certain passport authorities, the Foreign Service Act, and for other purposes; to the Committee on Foreign Relations.

● Mr. PELL. Mr. President, I introduce for Mr. CHURCH, by request of the administration, a bill to amend the U.N. Participation Act, Certain Passport Authorities, the Foreign Service Act, and for other purposes.

The bill has been requested by the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis of the bill and the letter from the Assistant Secretary of State to the President of the Senate dated March 24, 1980.

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

S. 2531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

LIVING QUARTERS FOR THE STAFF OF THE U.S. REPRESENTATIVES TO THE UNITED NATIONS

SEC. 101. Section 8 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e), is amended:

(1) by striking "the representative of the United States to the United Nations referred to in paragraph (a) of Section 2 hereof" and inserting in lieu thereof "the representatives provided for in Section 2 hereof and of their appropriate staffs", and

(2) by adding at the end thereof the following: "Any payments made by United States Government personnel for occupancy by them of such leased or rented premises shall be credited to the appropriation, fund, or account utilized by the Secretary for such lease or rental, or to the appropriation, fund, or account currently available for such purposes".

CEREMONIAL GIFTS

SEC. 102. The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, (22 U.S.C. 2696), is amended by adding at the end thereof the following new section:

"Section 25. Funds authorized to be appropriated for International Organizations and Conferences may be used from time to time for payments by the United States for ceremonial gifts to international organizations of which the United States is a member."

INTERNATIONAL ORGANIZATIONS IN VIENNA

SEC. 103. Amend Section 2 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e) by adding at the end thereof the following new subsection:

"(h) The President, by and with the advice and consent of the Senate shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct."

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

SEC. 104. Public Law 94–37, approved June 19, 1975, is amended by striking out "of the United Nations peacekeeping forces in the

Middle East," and inserting in lieu thereof "of United Nations peacekeeping forces,".

PASSPORT FEES AND DURATION

SEC. 105. (a) Section 1 of the Act of June 4, 1920, as amended (22 U.S.C. 214) is amended by striking out the first sentence and inserting in lieu thereof "There shall be collected and paid into the Treasury of the United States a fee prescribed by the Secretary of State by regulation for each passport issued and a fee prescribed by the Secretary of State by regulation for executing each application for a passport".

(b) Section 2 of the Act of July 3, 1926, as amended (22 U.S.C. 217a), is amended—

(1) by striking out "five" in the first sentence and inserting in lieu thereof "ten";

(2) by inserting before the period at the end of the second sentence "in an individual case or on a general basis pursuant to regulation"; and

(3) by striking out the third sentence, and substituting in lieu thereof "A passport issued subsequent to the effective date of this section shall be valid for a period of ten years from the date of issue except where such passport is or has been limited by the Secretary of State to a shorter period."

DOMESTIC TRANSFER ALLOWANCE

SEC. 106. Section 911 of the Foreign Service Act of 1946 is amended by adding to the end thereof:

"(13) The travel and relocation of officers and employees of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under sections 3371–3376 of title 5, United States Code (notwithstanding section 3375(a) of title 5, United States Code), if an agreement similar to that required by section 3375(b) of title 5, United States Code, is executed by the officer or employee of the Service."

SECTION-BY-SECTION ANALYSIS

Sec. 101. Living Quarters for the Staff of the U.S. Representative to the United Nations.

This section would provide authorization for the lease or rental of living quarters for use of the staff of the United States Representative to the United Nations. This amendment is necessary to: (1) cope effectively with the housing market; (2) take advantage of the rent increase limitation imposed by the New York City Rent Stabilization Code; and (3) eliminate substantial, personal, out-of-pocket expenses and insure that economic hardship does not adversely affect the ability to attract the best qualified individuals for service at the United States Mission to the United Nations. To reduce expenditures of appropriated funds, the payments made by employees to occupy these living quarters would be credited to and used by the appropriation or account from which the Department lease or rental is financed.

Sec. 102. Ceremonial Gifts.

This amendment will enable the U.S. to participate uniformly with other member nations in providing appropriate support to ceremonial occasions of various international organizations. For example, this legislation will allow the United States to provide the International Maritime Consultative Organization with a seal to be placed outside its new headquarters building in London when completed.

Sec. 103. International Organizations in Vienna.

This section will enable the U.S. to combine the direction and management of its offices to International Organizations in Vienna into one mission.

Sec. 104. Contributions for International Peacekeeping Activities.

Under Public Law 94–37, the United States is limited to making payments for expenses of United States peacekeeping forces in the Middle East. However, on September 29, 1978, U.N. Security Resolution 435 established the United Nations Transitional Assistance Group (UNTAG). The purpose of this group is to ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations. Upon implementation of U.N. Security Council Resolution 435, the United States will be obligated to pay its share of UNTAG's expenses through an assessed contribution. The ability of the United States to meet this additional obligation necessitates an amendment to Public Law 94–37. This change will enable the United States to contribute its assessed share, as apportioned by the U.N. General Assembly, to peacekeeping operations that occur worldwide.

Sec. 105. Passport Fees and Duration.

Subsection (a) would permit the Secretary of State to determine the execution and issuance fees for United States passports. It would eliminate the statutory issuance fee of $10.00 and provide flexibility in adjusting passport issuance as well as application fees. It would thus permit the Secretary of State to apply the same kind of process in determining passport fees as is applied in consular and other fees, in accordance with the policy and standards set out in 31 U.S.C. 483a. The Department intends to establish passport fees in accordance with the user charge principle provided for in Title V of the Independent Offices Appropriation Act of 1952.

Subsection (b) would set a ten-year duration for passport validity, extending the period from the present five years from the date of issuance. In addition, it would permit the Secretary of State to establish a shorter period either in a particular case or on a general basis pursuant to regulation. This will provide flexibility to deal with particular categories of cases which require that the period of a passport's validity be less than ten years (e.g., infants whose appearance will change greatly over a ten-year period).

Subsection (b)(3) is entirely prospective and would not require the physical endorsement of currently outstanding passports (estimated at 16.3 million). The Department of State estimates that 60 percent of the time required to issue a new passport would be required to endorse a previously issued one.

Sec. 106. Domestic Transfer Allowance.

The addition of a new subsection (13) to Section 911 of the Foreign Service Act of 1946, as amended, is proposed to make available a transfer allowance to foreign service officers and employees transferring to or within the United States, its territories or possessions or the Commonwealth of Puerto Rico on the same basis as is currently available to non-Foreign Service employees. Foreign Service benefits now fall short in two respects. First, transfer allowances are authorized for Foreign Service personnel reassigned from overseas to the United States only if further foreign assignments are anticipated by the agency and the employee (5 U.S.C. 5924(2)(B)). Second, Foreign Service personnel transferring from one domestic assignment to another are excluded from domestic transfer allowances (5 U.S.C. 5724(g)). This amendment, by covering travel and relocation expenses of all transfers to and within the United States, will provide equity with other Government employees. Like other employees, the personnel covered by this legislation will be required to agree in writing to serve for 12 months after their transfer unless separated for reasons beyond their control for reasons acceptable to the agency.

MARCH 24, 1980.

HON. WALTER F. MONDALE,
President of the Senate,
U.S. Senate

DEAR MR. PRESIDENT: There is transmitted herewith a legislative proposal to amend several existing authorities in order that the Department of State may carry out its functions, duties and responsibilities in the conduct of the foreign affairs of the United States, and for other purposes authorized by law.

This proposal contains amendments to the U.N. Participation Act, certain passport authorities, the Foreign Service Act, and amendments for other purposes. An analysis further explaining the proposed legislation is enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.●

By Mr. HAYAKAWA (for himself, Mr. TOWER, Mr. WALLOP, Mr. MCCLURE, Mr. SIMPSON, Mr. STEVENS, Mr. HART, and Mr. BOREN):

S. 2532. A bill to reinstate and validate U.S. oil and gas leases numbered OCS–P–0218 and OCS–P–1226; to the Committee on Energy and Natural Resources.

OFFSHORE OIL LEASES

Mr. HAYAKAWA. Mr. President, I introduce for consideration a bill to be referred to the Committee on Energy and Natural Resources to reinstate and validate certain U.S. oil and gas leases.

The PRESIDING OFFICER. Will the Senator repeat his request?

Mr. HAYAKAWA. My request is that my bill be received for referral. It is not for immediate consideration.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. HAYAKAWA. Mr. President, on behalf of myself and Senators TOWER, WALLOP, MCCLURE, SIMPSON, STEVENS, HART, and BOREN, I introduce legislation today which will resolve a longstanding dispute between the holders of certain offshore oil leases in the Santa Barbara Channel, Calif., and the U.S. Government. The resolution of this dispute will not only provide a fair and equitable solution for the leaseholders and the Government, but will enhance our goal of increased energy production in an environmentally sound fashion.

Mr. President, this legislation has already been introduced in the other body by my distinguished colleague from California, Representative JERRY PATTERSON. The Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs held hearings on H.R. 5769 on March 13, 1980, at which time, testimony was received from the Secretary of the Interior and representatives of the holders of the leases in question. This legislation has widespread bipartisan support, which is indicative of the sound policy justification on which it is based.

The genesis of the dispute which led

to the introduction of this legislation is in the atmosphere of misunderstanding and uncertainty which followed the oilspill in the Santa Barbara Channel at the Union Oil Co.'s well in tract 402 on January 28, 1969. A year before the blowout, a consortium of nine independent oil and gas companies lead by Pauley Petroleum of Los Angeles, Calif., had successfully bid on two Outer Continental Shelf tracts in the Santa Barbara Channel. They were able to pool their resources and bid cash bonuses of $73.8 million for tracts 375 and 384. In exchange for these costly cash bonus payments and an annual rental payment of $34,560, the U.S. Government granted the Pauley group the right to explore for oil and gas. The terms of the lease granted an exclusive right for a primary term of 5 years and "as long thereafter as oil or gas may be produced * * * in paying quantities * * * ."

At the time of the Union Oil blowout, in addition to the purchase of the leases, Pauley group had already expended nearly $1.5 million in prebid exploratory activities and close to $4 million in drilling costs involved in eight exploratory wells. Pauley was about to begin work on a ninth well at the moment the blowout occurred. All drilling activities in the channel were voluntarily suspended by the oil companies. Secretary of Interior Hickel then suspended all drilling operations in February 1969 and subsequently promulgated a "temporary" strict liability standard for offshore oilspills making operators absolutely liable for any damage to the environment or third parties by oilspills.

Mr. President, the strict liability standard presented an extreme hardship for all independent oil companies. Unlike the majors, the independents faced a collapsed insurance market and were incapable of self-insuring their operations in order to comply with the Secretary's strict liability standard. In effect, this meant that independents could not resume offshore oil operations. The majors were capable of self-insuring and resumed operations when the drilling suspension was lifted.

By April 1969, the Pauley Group was confronted with a serious problem which threatened the financial viability of the companies and their ability to commit resources to other exploratory activities. The Government's "temporary" strict liability standard prevented them from resuming operations in the channel if and when the drilling ban would be lifted by the Interior Department. In waiting, the group faced enormous interest payments on its investment. It was clear to them that waiting held great financial risks. Based on sound business judgment, the group decided it could not afford to wait for some form of governmental action which would permit resumption of drilling and perhaps alter the extremely burdensome liability standard. Seeking judicial relief for the extreme financial losses which it had incurred and which it would continue to incur seemed the only viable option open to these companies in order to protect their $80 million investment. In April 1969 the Pauley Group filed suit in the Court of Claims for damages against the United States.

These legal proceedings dragged on for a decade. The costs to the independent companies as well as to the Government were substantial. In January of this year the Court of Claims dismissed the group's claim and held that they "had no legal rights, vindicable here, when they brought suit." However, the court pointed the way to the remedy which I propose today. It stated:

> Perhaps the legislative or executive branches could, as a matter of grace or policy, extend their lease terms to permit them to drill further (if they still wish to) in an effort to discover oil in commercial quantities, but of course, we cannot take that step.

After 40 years of litigation the Pauley Group now seeks relief from the Congress according to the recommendation of the Court of Claims. They do not seek a refund of their cash bid or any other monetary relief. Rather, they seek the right to continue their exploration, a remedy the Court of Claims could not grant.

The legislation which I offer today would provide such equitable relief by reinstating the two leases for the unexpired term, approximately 4 years, 126 days and so long thereafter as oil or gas is produced in paying quantities. Another section of the bill imposes three conditions on the lessees:

First, the lessees must exercise "due diligence" in the exploration and development of these leases. In order to carry out this requirement, the lessees must file within 45 days of enactment of this bill an exploration and development plan with the Secretary of Interior.

Second, the lessees are required to comply with all environmental and regulatory requirements of the Outer Continental Shelf Lands Act Amendments of 1978.

Third, the legislation would require the lessees to pay back rentals for the period 1973 to present.

Legislative reinstatement is a fair and equitable course of action for the companies and for the Government. It is the only way to end more years of prolonged court battles. It is the only way to obtain rapid development of the leases. It is the only way to prevent further financial loss to the Government. And it is the only way to correct over a decade of misunderstanding which has unfairly deprived my constituents of their rightful interests in an $80 million investment.

I believe that congressional reinstatement of these leases can be supported on five basic policy grounds:

First, reinstatement is fully consistent with the publicly stated goals of President Carter and the Congress of rapidly increasing the domestic production of oil and gas. Rapid development of these leases is clearly in the national interest. The Pauley Group can provide the country with something no other oil company can: the potential for oil and gas production from these tracts as early as 1983. If these leases are put on the auction block instead of being reinstated, the Government's action could delay oil and gas production at least until the mid-1980's and perhaps past 1990 in view of the slowness of lease procedures and the expected delays from continued litigation.

Second, reinstatement is the only method to achieve the objectives stated by Interior Secretary Andrus for rapid development of the oil leases in the Santa Barbara Channel. The Secretary has been openly critical of the slow exploration schedules of some oil companies holding leases in the channel. The Pauley Group has pledged that it will take the steps necessary to continue exploration immediately after reinstatement. Their familiarity with the geological data base of these tracts puts them in a unique position to recommence their exploration quickly.

Third, reinstatement is consistent with the recently enacted Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95–372). Many of the problems of independent companies, such as the oil spill liability question, have been resolved by the OCS amendments. In passing these amendments, the Congress believed that independents should be able to play a role in the competitive bidding process and not be barred from offshore exploration by the high cost involved.

Fourth, reinstatement will likely provide economic benefits to the U.S. Government which probably cannot be obtained if these leases are put up for resale. The Pauley Group will—

Pay all accrued rentals and begin payments of royalties of commercial quantities of oil that are discovered;

Pay windfall profit taxes longer than a new lessee;

And not take an immediate tax write-off of its 1968–69 expenditures thus saving the Government several million dollars.

Moreover, based on the recent—June 28, 1979—and disappointing Santa Barbara lease sale by the Interior Department, if the Government attempts to resell these leases rather than supporting their reinstatement, it is unlikely to equal or improve its economic position.

Fifth, there is ample precedent for legislative reinstatement of Federal oil and gas leases. For example, in the 95th Congress, legislation reinstating oil and gas leases was considered and enacted by the Congress (Public Law 95–77 and Public Law 95–586). I believe the legislative precedents for reinstatement of mineral leases strongly support this legislation.

Mr. President, it would be impossible to discuss the issue of oil and gas exploration in the Santa Barbara Channel without expressing deep concern for the protection of the unique environmental heritage of this part of California's coast. The Pauley Group is firmly committed to do its utmost to safeguard the channel's environment.

Further, the group will, of course, comply with all pertinent and relevant provisions of the OSC Lands Act Amendments of 1978, including the submission of all lease development and production plans to the Secretary for approval. It should be noted that there is development activity all around these two tracts and thus reinstatement of the leases involves no peculiar environmental problems or risks. In fact, these two tracks were squarely within the geographical area covered by the exhaustive Environmental Import Statement prepared for the June 1979 lease sale.

Finally, Mr. President, I believe that

the unique circumstances and history of the Pauley Group's leases in the Santa Barbara Channel warrant a reinstatement in a timely fashion by the Congress. These two leases are the only ones remaining from the 1968 lease sale where much needed oil and gas exploration and development has not been able to go forward.

After spending $80 million on these leases, the Pauley Group would like to resolve this matter and continue its exploration. The group does not wish to engage in endless litigation with the Government and it is certainly not in the Government's interest to leave this matter unresolved.

I want to emphasize to my colleagues that the Pauley Group is not seeking a bailout or special Government compensation. It only wishes to resume exploration which was interrupted in 1969 by a totally unrelated event. Reinstatement will be beneficial to the group, the Government, and it will be consistent with our Nation's environmental and energy policies.

By Mr. BENTSEN:

S. 2533. A bill to amend the Internal Revenue Code of 1954 to exempt independent producers and royalty owners from the windfall profit tax on the first 1,000 barrels of daily production; to the Committee on Finance.

O Mr. BENTSEN. Mr. President, almost a year after the ill-conceived windfall profit tax first came to public attention, President Carter today played out the last act in this American tragedy by signing into law a massive tax that guarantees less domestic energy production in the future while insuring greater dependence on foreign sources of supply. I consistently voted against the windfall profit tax because it symbolizes the sort of disastrous energy policy this Nation can no longer afford.

The fact that the tax has now been signed into law only strengthens my determination to redress the injustices inherent in the notion of "windfall profits" and embodied in the tax.

When people consider the issue of the windfall profit tax there is a tendency to believe it is targeted solely at the major oil companies—the so-called Seven Sisters—who, according to the conventional wisdom, stand to reap huge, unearned profits from the decontrol of oil. The general public fails to recognize that the windfall profit tax also victimizes millions of individuals, millions of royalty owners, who hold title to an average of less than five barrels per day of crude production from their land.

Another major defect in the bill signed into law today is that it imposes a stiff excise tax—some $22 billion over the next decade—on oil produced by America's 12,000 independent producers.

Most of the oil and gas found in this country is due to the efforts of our independent producers. Unlike the majors, these entrepreneurs have no other fish to fry. Their only activity, their only source of income, is to search for oil and gas in this country.

They drill the wells that are not big enough or profitable enough for the majors; they take the chances considered too risky by the majors. Day in and day out they find oil—millions of barrels of oil—that would otherwise remain under the ground.

The statistics are by now familiar and compelling. Independents drill 90 percent of the wildcat wells in this country. They find 75 percent of the new oil and gas fields. They account for 54 percent of our new oil and gas reserves.

The vast majority of independents are unincorporated, and their profits are subject to a maximum tax rate of 70 percent—not the 46 percent corporate tax rate enjoyed by their competition.

The "push" of our tax code and the "pull" of the profit motive have over the years created a unique situation in which independent producers have reinvested 105 percent of gross wellhead revenues in new exploration.

If we are sincerely concerned about increasing domestic oil and gas production, I can think of no more efficient or effective way to go about it. Give the independent producers $100 in incentives, and they will invest $105 in new production at a time we desperately need every drop of oil we can produce in this country.

Mr. President, if we want to make maximum effective use of our energy assets in America, it simply makes no sense to place a windfall profit tax on the first 1,000 barrels of daily production from our independent operators. It makes no sense to take $22 billion out of production over this decade.

The effect of such a tax is clear and indisputable: It would take resources away from those who invest in our energy future. It would increase our dependence on imported energy. It would impose a huge regulatory burden on those least able to contend with it.

We have seen that the so-called windfall profit that will be earned by the independent producers will be reinvested—dollar for dollar and then some—in activities leading directly to greater energy production in America. That, in my opinion, is a trend that should be encouraged, particularly at a time when it is becoming increasingly costly and risky to find oil and gas in this country.

Accordingly, Mr. President, I am introducing legislation today designed to eliminate two of the more onerous aspects of the windfall profit tax. My legislation would exempt royalty owners, millions of whom depend on this modest income to cope with inflation, from paying a windfall profit tax which clearly should not apply to them. And it would also provide a complete and total exemption for the first 1,000 barrels of daily production by America's independent producers.

The Senate is clearly on record, Mr. President, as favoring both exemptions and I am hopeful that we can move promptly to redress these flagrant injustices in the windfall profit tax.

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

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

S. 2533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 4987 of the Internal Revenue Code of 1954 (relating to amount of windfall profit tax) is amended to read as follows:

"Sec. 4987. AMOUNT OF TAX.

"(a) IN GENERAL.—The amount of tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be the applicable percentage of the windfall profit on such barrel.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) GENERAL RULE FOR TIERS 1 AND 2.—The applicable percentage for tier 1 oil and tier 2 oil is—

"Tier 1	70
"Tier 2	60

"(2) TIER 3 OIL.—The applicable percentage for tier 3 oil is 30 percent.

"(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on the whole barrel."

SEC. 2.—Section 4991(b) of the Internal Revenue Code of 1954 (relating to taxable crude oil) is amended to read as follows:

"(b) EXEMPT OIL.—For purposes of this chapter, the term 'exempt oil' means—

"(1) any crude oil from a qualified governmental interest or a qualified charitable interest.

"(2) any exempt Indian oil,

"(3) any exempt Alaskan oil,

"(4) any exempt front-end oil, and

"(5) any independent producer and royalty owner oil."

SEC. 3. Section 4992 of the Internal Revenue Code of 1954 (relating to independent producer oil) is amended by:

(a) changing the heading to read "Sec. 4992. Independent Producer and Royalty Owner Oil.",

(b) striking subparagraph (d)(1)(D), and

(c) striking paragraph (d)(2).

SEC. 4. Effective Date. The amendments made by this Act shall be effective beginning March 1, 1980.●

By Mr. CRANSTON:

S. 2534. A bill to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Veterans' Administration Department of Medicine and Surgery, and for other purposes; to the Select Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION HEALTH-CARE ACT OF 1980

● Mr. CRANSTON. Mr. President, I am today introducing, for appropriate reference, S. 2534, the proposed "Veterans' Administration Health-Care Personnel Act of 1980." The basic purpose of this bill, in the interest of assuring quality health care for our Nation's eligible veterans in VA health-care facilities, is to help overcome serious difficulties being experienced in the VA health-care system in the recruitment and retention of capable, qualified health-care professionals and to make needed improve-

ments in various aspects of the administration of the VA's own health-care personnel system under title 38, United States Code.

BACKGROUND

Mr. President, the issue of the quality of health care for veterans is one that has occupied a great deal of the committee's time and attention during this Congress. Although I am not convinced, as some have suggested, that there is a grand design on the part of the administration to dismantle the VA health-care system, I am concerned that the system has encountered severe difficulties resulting in a serious, adverse impact on the ability of the VA to provide appropriate health care to disabled and other eligible veterans who rely on the VA to meet their health-care needs.

In this regard, I believe that 1979 was a very turbulent year for the VA health-care system—especially in terms of personnel strength and stability. The testimony the committee heard last October 25, sitting in extraordinary joint session with our counterpart committee in the House, stands as compelling evidence to this point. I was especially impressed by the views expressed by the witnesses at that hearing from VA health-care facilities around the country, each of whom expressed the same message in different words drawn from their different experiences—that the system was struggling to meet the needs of the veterans who came to the VA for care and the personnel and budget cutbacks that had been imposed on the system were the cause of this struggle.

IMPORTANCE OF VA HEALTH-CARE SYSTEM

While far from a panacea for all of the problems facing the VA health-care system today, I believe that the bill I am introducing today has many important elements that, if enacted, will go a long way to addressing some of the more significant problems, most especially the present difficulties that the VA faces in attempting consistently to recruit and retain the high caliber of health-care personnel that is an indispensable part of providing quality health care.

Mr. President, I believe that it is important that the VA health-care system receive priority attention from the Congress and the administration at this time. Not only is that system a major, vital part of the range of VA benefits that have been promised to our Nation's veterans for their service on behalf of the Nation—and, as such, a sacred commitment, especially to those who suffered a disability while in service—but it comprises a key element in our overall national defense effort. The events in the Middle East and Southwest Asia are the clearest sort of reminders, if any are needed, that world events could propel us once again to confront an adversary on the field of battle. We must be prepared for that eventuality and, in that context, must recognize that the VA health-care system is critical to our military preparedness.

Mr. President, the defense of our Nation and the great cost of war include our commitment to restore the health and welfare of our warriors injured while serving the Nation. If we are perceived as failing to keep our promises to veterans of past conflicts by, for example, not assuring that the VA's ability to provide health-care services to eligible veterans is unimpaired—it is difficult to expect that those presently in the service and would-be recruits will be eager to serve. It should be understood that the costs of war do not end with the cessation of hostilities; our obligation to those who fight, their families, and their suvivors continues as the on-going cost of war and must be understood as such.

Mr. President, there is another, more tangible element in the VA/national defense equation. The VA health-care system, with its 172 hospitals and hundreds of other health-care facilities, is the first backup to the relatively meager medical resources available to the Department of Defense in the event of war. Although I know that some officials in the Department of Defense understand the vital role of the VA, in the event of a future conflict, to care for the casualties after they have been stabilized, I believe that it is critical that this factor receive wider attention.

Mr. President, in this regard, I wrote President Carter on March 13 stressing my view that, because of these commitments to veterans and this important VA role in connection with our national defense, VA health-care facilities should receive special treatment under any freeze in Federal employment. Mr. President, I ask unanimous consent that the text of that letter, which more fully sets forth my views on this issue, be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 13, 1980.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express my concern about Administration plans for the VA health-care system for fiscal years 1980 and 1981 in light of present efforts to reduce overall spending levels. Specifically, I am most concerned about VA health-care personnel ceiling levels and the impact that reductions in the existing ceiling or a personnel hiring freeze would have on the VA's ability to provide quality health care to our Nation's veterans.

At the outset, I want to stress my commitment to taking appropriate action to reduce the federal deficit as one necessary way to help curb the inflation that is hurting all Americans, including, of course, all veterans. Although I will work to preserve the integrity of veterans programs, because I see our system of veterans benefits and services as a solemn commitment made by the government to those who answered their country's call and bore the brunt of battle, I understand that there are some economies that the VA should accept as part of a larger national effort to reduce federal spending. However, I believe that VA health-care facilities, particularly in terms of personnel levels, must be protected from reductions and from any harm that could stem from unduly arbitrary restrictions on hiring.

I take this position because the VA health-care system has already suffered severe dislocations, particularly in the past two years, and it cannot afford any further, substantial disruptions. You may recall that I wrote to you exactly one year ago outlining my concerns in this regard based on the situation as it then existed. Despite the addition of 3,800 health-care personnel positions to the VA's Department of Medicine and Surgery in fiscal year 1980 to restore cuts imposed during the preceding year, many of the concerns raised in my earlier letter still apply. The fact is that the system is operating at minimum personnel levels that threaten the physical and mental well-being of veterans in need of medical and psychological assistance.

Any significant disruption in VA health-care facility staffing could be devastating, coming as it would in the wake of the variety of problems recently faced by the system as outlined in my earlier letter—including personnel cutbacks imposed by OMB in fiscal year 1979, the unwise and unjustified diversion of funds specifically appropriated for new personnel hires to defray the cost of the October 1978 pay raise, the untimely and arbitrary personnel hiring freeze instituted in October 1978, and the uncertainties and controls connected with the FTEE test in which the VA has been required to participate.

These various actions generated problems that accumulated and produced burdens on the system that were not expected to be caused by any one action but were suffered as the result of the manner in which each such action aggravated the effects of the others. Moreover, by reducing an already overworked staff, a greater workload was placed upon those who remained in the system and that, in turn, led to further personnel reductions by way of increased resignations and recruitment difficulties. The system is still trying to recover from the impact of these multiple problems.

During the October 25, 1979, joint House-Senate hearing on VA health care, extensive, credible evidence was presented that, almost eight months after the termination of the hiring freeze, some VA facilities were still suffering major effects of the freeze in certain key personnel categories and were actually still experiencing a downturn with respect to nursing staff. In fact, the VA reported recently that, as of February 29, 1980, cumulative medical care FTEE was more than 2,400 below the funded level, which the Congress views as the acceptable level for the current fiscal year. I believe that the VA's difficulties in bringing health-care staffing up to authorized levels is a continuing after-effect of the severe personnel problems that were imposed on the VA in fiscal year 1979.

Any further actions along similar lines at this point could undo the recovery process and could well put the system in a situation as bad as or worse than the one that existed when I wrote you a year ago. As I stressed then, personnel management in health-care settings has an immediacy and sensitivity and real life-and-death consequences that are duplicated in few other areas of federal employment. The imposition of personnel cuts or freezes on the VA health-care system similar to ones imposed on non-health-care systems would clearly jeopardize the quality of VA medical services and the safety of the veteran-patient receiving those services.

My concerns on this score derive not only from the importance of the system as a part of the national commitment to our veterans but also from the need to maintain the system as part of our national defense efforts.

The role of the VA health-care system in national defense has two important aspects, one intangible and the other tangible. The intangible aspect relates to the recruitment and retention of capable, motivated military personnel and to their morale. The defense of our Nation and the great cost of war include our commitment to restore our warriors

injured while serving the Nation. If we are perceived as failing to keep our promises to veterans of past conflicts—by, for example, impairing the VA's ability to provide health-care services to eligible veterans—it is difficult to expect that those presently in the service and would-be recruits will be eager to serve. The costs of war plainly do not end with the cessation of hostilities; our obligation to those who fight, their families, and their survivors continues as the on-going cost of war and must be understood as such.

The tangible element in the VA/national defense equation is that the VA health-care system, with its 172 hospitals and hundreds of other health-care facilities, is the first back-up to the relatively meager medical resources available to the Department of Defense in the event of war. Defense Department contingency plans clearly recognize this fact, but I am not convinced that the importance of the VA to our military preparedness has been appreciated or appropriately taken into account in recent budgetary actions.

Thus, I want to express my strong opposition to the inclusion of VA health-care personnel in any long-term personnel hiring freeze that may be contemplated. With respect to the possibility of a short-term freeze, I would reemphasize that the VA health-care system is already hampered by the existence of a current shortfall of over 2,400 FTEE's. In addition, due to personnel turnover rates—approximately 1,000 per month for nursing personnel alone—a temporary freeze or hiring restriction would prevent the hiring of literally thousands of direct-care and support personnel needed just to stay at the present, below-strength staffing level. I, therefore, strongly urge that, in the design of any such temporary restrictions on hiring, serious and compassionate consideration be given to providing sufficient flexibility regarding VA health-care personnel to assure that the lives, health, and safety of veterans who rely on the VA for medical care will not be jeopardized.

Mr. President, in closing, I want to affirm my commitment to supporting initiatives to control inflation; however, I am equally committed to assuring that we deal appropriately and fairly with our nation's veterans and, most importantly, that the vital role of the VA health-care system is recognized and supported in making any budgetary decisions.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

Mr. CRANSTON. Mr. President, I am grateful that the President has accepted the views I put forth. The VA, pursuant to direction from the Office of Management and Budget, has been granted broad authority to make exceptions from the terms of the hiring freeze for direct-care and related personnel where necessary to maintain and assure the quality of medical care in VA health-care facilities.

PRINCIPAL ASPECTS OF LEGISLATION

Mr. President, the bill that I am introducing today would help in a number of important ways to help achieve the goal I mentioned earlier of improving the overall quality and performance of VA health-care personnel. Among the key provisions are ones that would improve the existing program for special pay for VA physicians and dentists, which is aimed at overcoming difficulties in the VA's retention of these health-care professionals, and make such a program permanent, replacing the out-dated, inadequate, stop-gap measure that has been in effect since 1975; remove top VA Department of Medicine and Surgery (DM&S) personnel who are hired under the authority of title 38 from the Senior Executive Service under title 5 and the purview of the Office of Personnel Management; and clarify the appropriate balance between full- and part-time health-care personnel in the VA and between the various VA health-care facilities and the medical schools with which they are affiliated.

In addition to these features are provisions that would improve the VA's overall administration of its health-care personnel system in a variety of ways, including by bringing licensed practical or vocational nurses and nursing assistants under title 38 for most purposes relating to their employment in the VA; by providing new authority to the Administrator to vary the rates of pay for health-care professionals on local or regional bases when such action is needed to meet the rates being paid to such personnel by non-Federal health-care facilities; and by improving the schedule pursuant to which nurses and other direct-health-care personnel receive additional pay for work outside of normal working hours, such as for overtime and standby activity.

HEARINGS AND FURTHER ACTION SCHEDULED

Mr. President, hearings have been scheduled on this legislation for April 16, at 9 a.m. in room 412 of the Russell Senate Office Building. After the committee has had the opportunity to hear from individuals and groups wishing to comment on this legislation, committee markup is scheduled for April 30.

SPECIAL PAY PROVISIONS

Mr. President, as I mentioned earlier, among the key provisions of this bill are those that would update, improve, and make permanent the special pay program for physicians and dentists in the VA's Department of Medicine and Surgery.

When Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act, was enacted in 1975 to provide a special-pay program for VA physicians and dentists in order to overcome difficulties that the VA was experiencing in the recruitment and retention of these professionals, the scheme created by that law was regarded as a temporary measure that would be replaced, in a very few years, with a permanent, unified salary structure applicable to all Federal physicians. The original law, in fact, authorized the VA to enter into agreements only until October 11, 1976. Although this termination date was extended three times—the current termination date is now September 30, 1981—such action was always taken with the understanding—based on assurances from the Director of the Office of Management and Budget—that a permanent measure that would address all Federal physicians would be forthcoming from the administration.

It was not until late last summer that OMB finally indicated to the Committee that the administration no longer intended to develop a unified salary system to address all Federal physicians and that, rather, the administration was satisfied with existing individual bonus authorities.

Mr. President, I ask that the text of two of my letters to the Director of OMB—dated April 10, 1978, and June 22, 1979—together with the text of the Director's reply to me of August 6, 1979, be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., April 10, 1978.

Hon. JAMES T. MCINTYRE, Jr.,
Acting Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR JIM: I am writing with regard to a commitment by the Office of Management and Budget to propose legislation on compensation for Federal physicians and dentists. In a May 2, 1977, letter to the Honorable Ray Roberts, Chairman of the House Committee on Veterans' Affairs, your predecessor stated that the Office of Management and Budget was reviewing relevant studies and that "[l]egislative proposals based upon this review will be reflected in the President's fiscal year 1979 budget".

The President's fiscal year 1979 budget, however, does not reflect any such proposal. Rather, with respect to the Veteran's Administration, the budget includes a proposal for another one-year extension of the Veterans' Administration Physicians and Dentists Pay Comparability Act. If extended, this would be the third renewal of what was intended to be a stopgap measure, necessitated by the absence of a permanent solution.

Similarly, the authority for the special-pay program for physicians and dentists in the uniformed services is due to expire on September 30, 1978 and; in the absence of a new permanent program, a further extension of that program must also be considered. At the same time, Federal physicians and dentists paid under the General Schedule are not covered by a special-pay authority.

Within the past two years alone, there have been four studies on this problem on a government-wide basis; an Inter-Agency Task Force comprised of Federal agencies which employ physicians and dentists (May 12, 1975); a General Accounting Office report (August 30, 1976) and an Office of Management and Budget report on recruitment and retention of Federal physicians and dentists (December 28, 1976); and the President's Reorganization Project Option Paper No. 6 (October 14, 1977).

The need for comprehensive reform has been clearly recognized. However, in view of the approximately one dozen Congressional committees involved, I believe that the impetus for a permanent, government-wide solution must come from the Administration. Therefore, I would appreciate your advising me as to the status of your progress in developing the necessary legislative proposals and the anticipated date for their submission to the Congress.

This becomes very crucial from a time standpoint because there is legislation currently pending in the Senate, S. 990, which would create a comparability allowance program for physicians and dentists paid under the General Schedule. During the last session of Congress, Senator Mathias submitted Amendment No. 1621 incorporating the provisions of that bill as an amendment to H.R. 8175—now Public Law 95–201, the Veterans' Administration Physicians and Dentists Pay Comparability Amendments of 1977—at the time of final passage of H.R. 8175 by the Senate. Although the amendment was defeated by a vote of 37 to 48, similar amendments seem likely during floor

action on any measures extending the special-pay programs of the VA or the uniformed services.

In my December 7, 1977, letter to you, I previously expressed my concerns with respect to undue OMB delays in submitting reports and proposals to the Congress. The Administration's long delay in submitting a comprehensive proposal for Federal physicians' and dentists' pay in unduly postponing the achievement of an equitable solution to the physicians' and dentists' pay problem.

On March 10, 1978, in testimony before the Civil Service and General Services Subcommittee on S. 990, "Federal Comparability Allowance Act of 1977", the Civil Service Commission stated that a comprehensive Administration proposal will be submitted to the Congress in the "near future". I urge you to honor this further commitment by submitting your proposal to Congress as soon as possible.

Thank you for your consideration of these matters. The Committee on Veterans' Affairs is prepared to cooperate with the Administration and other Senate committees concerned in the interest of ensuring that Administration proposals in this area are given full and timely consideration in Congress.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

U.S. SENATE,
Washington, D.C., June 22, 1979.

Hon. JAMES T. MCINTYRE, Jr.,
Director, Office of Management and Budget, Washington, D.C.

DEAR JIM: On April 10, 1978, I wrote you regarding a commitment by the Office of Management and Budget to propose legislation on compensation for Federal physicians and dentists to develop a unified salary structure applicable to all Federal physicians. I am enclosing a copy of that letter, which outlined the urgent need for such a proposal.

Please inform me as to the status of this proposal and when you expect to submit it to the Congress. If no such legislation is going to be proposed, please advise me as to why the Administration has abandoned such an important proposal.

I trust you will give this very important matter your personal and prompt attention.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

EXECUTIVE OFFICE
OF THE PRESIDENT,
Washington, D.C., August 6, 1979.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am responding to your recent letter inquiring about the prospects for an Administration proposal for a unified salary structure applicable to all Federal physicians.

In my letter to you of May 25, 1978, I outlined the difficulties we were experiencing in reaching a consensus on a unified physician salary structure. I also outlined the alternative we favored for the near term. That is, providing bonuses or special pay over and above salary, specifically designed to satisfy the recruitment and retention needs of the various groupings of physicians. These major groups of physicians are Veterans Administration physicians under Title 38 U.S.C., civilian physicians under the General Schedule, and military physicians, including those in the commissioned corps of HEW's Public Health Service.

With the enactment last November of PL 95-603 which provided a bonus for General Schedule physicians, all major groups of Federal physicians are now covered by a bonus authority. Further, we have forwarded to the Congress legislation to extend the General Schedule bonus authority for two years and have requested changes to the military bonus authority. We have taken these actions with the view of making sure that our bonus authorities are adequate in amounts and are properly tailored to respond to the different problems agencies have in attracting physicians to serve under different conditions (military vs. civilian) and in different locations.

As we have worked to resolve this complex problem, we have gradually come to believe that it is not feasible to design a unified salary system that would successfully address the varying problems faced by agencies in the recruitment and retention of Federal physicians. Consequently, we think the best solution is to recognize the very different attraction and retention problems of various groups of physicians by having individual bonus authorities specifically tailored for each group as we now have.

I trust this will satisfy your request.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Mr. CRANSTON. Mr. President, although I am not satisfied with the executive branch's inability to design a pay plan that would deal effectively with all Federal physicians, I am constrained to proceed separately to try to meet the pressing needs that exist in the VA today. It is as vital in 1980 as it was in 1975 to recruit and retain a qualified workforce of physicians and dentists to staff D.M. & S. Although the initial special pay legislation helped meet this need at the time it was enacted, the schedule of special pay included in that legislation no longer is sufficient—due to inflation in the economy and increases in non-Federal health care professionals' remuneration nationwide and in particular regions—to meet the needs of the VA health care system. In light of this clear, continuing need and OMB's decision to not develop a unified approach, I am very disappointed that the administration has not sent forward any legislation to update the 1975 doctor pay schedule applicable to the VA.

Mr. President, in introducing this bill, I am not unmindful of the President's veto on March 11 of H.R. 5235, the Uniformed Services Health Professionals Special Pay Act of 1980, legislation—not dissimilar in purpose to this bill—to provide bonus payments to physicians and dentists in the uniformed services. Although I recognize that there may have been provisions in that legislation that justified the veto in light of other considerations, I believe that there are a number of differences between the situation in the VA and in the uniformed services—for example, the relationship between recruitment problems in the uniformed services and the possible impact of changes in the status of the draft that is not applicable to the VA's situation—that distinguish this legislation from H.R. 5235. Moreover, a number of the President's objections to H.R. 5235 were either not applicable to the VA or have been taken into consideration in the drafting of this bill.

Mr. President, with specific reference to the President's veto message, there is one point on which I want to comment specifically. In the course of his message, the President stated:

> Only in the Armed Forces are we experiencing a serious shortage of physicians.

This statement could be read in the narrower context of comprising shortages of physicians in the Public Health Service and the Armed Forces, a point the President was addressing in his veto message, and, if that was the full intended meaning, I do not challenge this assertion. If, however, the President was comparing the situation in the armed services with the rest of the Federal sector—including the VA—then I must disagree strongly. As will be more fully documented as the committee considers the legislation I am introducing today, there is, indeed, a serious recruitment and retention problem in D.M. & S. and serious remedies are needed.

Mr. President, the special pay provisions in the bill generally build on the formula in existing law, with some modifications. In recognition of the different personnel issues presented by the employment of physicians and dentists in the VA, the bill proposes two schedules for special pay, one for each profession, in lieu of the single schedule in current law. In addition, there is a change proposed to existing law relating to the extent to which part-time employees receive special pay. With reference to the specific special pay levels proposed to be authorized, the overall maximum amount of special pay is increased to $23,500 for physicians and $10,000 for dentists. Of this total, the primary special pay level is proposed to be $7,000 for physicians and $2,500 for dentists, with $16,500 for physicians and $7,500 for dentists as the maximum amount of incentive special pay. In the area of incentive special pay, I believe the most important change proposed in the bill concerns incentive special pay for persons serving in scarce medical or dental specialties. Under the provisions in the bill, the VA would be able to pay up to the maximum amount of incentive special pay authorized—$16,500 for physicians, $7,500 for dentists—to an individual serving in a scarce specialty. This provision is designed to enable the VA to compete more effectively for persons qualified in such scarce specialties and thereby reduce the agency's dependence on part-time and contract personnel to fill such positions.

Mr. President, one other provision relating to the special pay authority that I want to highlight briefly is the Veterans' Administration Physicians' and Dentists' Pay Board, a mechanism—modeled on the Commission on Executive, Legislative, and Judicial Salaries provisions in 2 U.S.C. 351 et seq. applicable to various executive schedule, legislative and judicial salaries—proposed in the bill that would allow for periodic increases in the rates authorized under the special pay authority without the necessity of repeated congressional action. As set forth in the bill, the Board will make a recommendation to the President annually, who, in turn, would include recommendations for the appropriate level of special pay

for VA physicians and dentists as part of his budget submission to the Congress. The rates so proposed would become effective unless the Congress, or either House of the Congress, acted in some manner to produce a contrary result. I believe this approach permits the Congress to maintain an appropriate monitoring role and a check on the special pay system without the necessity of annual legislative action.

RELATIONSHIP TO SENIOR EXECUTIVE SERVICE

Mr. President, along with the revised plan for special pay for VA physicians and dentists, the provision relating to the Senior Executive Service is another very important element in this bill. Following passage of the Civil Service Reform Act, Public Law 95-454, questions arose about the applicability of the Senior Executive Service (SES) established by that legislation to the senior personnel in the VA's Department of Medicine and Surgery who are employed under title 38. The VA has requested and the President has granted a 1-year exclusion of senior medical positions in D.M. & S. from SES which runs until July 13, 1980. Both Chairman RAY ROBERTS of the House Committee on Veterans' Affairs and I then took the position that the lack of clear congressional intent during consideration of the Civil Service Reform Act to repeal the provisions of title 38 supported a finding that title 38 personnel were not covered by SES.

However, the Comptroller General issued a legal opinion that reached the contrary result, and I am most concerned that, should VA personnel actually be placed under SES, it would seriously undermine the existing VA health care personnel system by shifting the final authority for appointment of the top positions in D.M. & S. and the management of these key positions from the Administrator to the Director of OPM, thus effectively removing the flexibility and control that the VA has exercised for over 33 years since the establishment of a separate Department of Medicine and Surgery. Accordingly, the bill contains a provision clarifying explicitly that the VA's title 38 health care personnel system is independent of SES.

STAFF AND AFFILIATION BALANCE

Mr. President, other significant parts of the bill I am introducing today relate to the issue of the appropriate character of the VA health care system—the balance in the system's professional staff between individuals who are full-time employees and those who are part-time employees, and in the relationship between the various VA health care facilities and the health care training institutions with which they are affiliated.

Mr. President, I mention these two matters together because they both are integral parts of the change that has come to the VA system since the end of World War II. By establishing close ties with health care training institutions, particularly with medical schools, the VA has gained enormous advantages in terms of improved health care for veterans. At the same time, the Nation as a whole has gained a great deal because our medical schools have gained access to a very large health care system within which medical students can gain critical experience in their profession in a clinical setting. It is my view, therefore, that VA affiliations with medical schools—and the associated practice of having some physicians serve part time at the VA and part time at the affiliated institution or elsewhere—are generally beneficial to all the parties concerned, including veteran-patients, and should be supported.

Nevertheless, Mr. President, I recognize that these relationships can get out of balance to the possible detriment of the VA—when, for example, the affiliated medical school becomes the dominant partner in a given affiliation and dictates policy, including, for instance, hiring policy at the VA, that impairs the VA's ability to provide appropriately for veterans seeking care at the VA facility or when the percentage of full-time VA physicians becomes so small that there is no longer an effective force at the VA facility to manage it properly and the presence of the requisite primary commitment of the staff to the care and treatment missions of the VA is called into question. Many observers believe that such situations exist at the present time at quite a few VA health care facilities, and our hearings should help explore these observations. The legislation attempts to establish safeguards to assure that appropriate balances are maintained between VA health care facilities and affiliated institutions and between full- and part-time employees on the VA staff.

Mr. President, the bill addresses these areas in a variety of ways. On the full- and part-time employee issue, the proposed special pay structure is calculated to provide greater incentive to full-time service without penalizing part-time employees. In addition, there are provisions in the bill that would require that chiefs of staff, associate chiefs of staff, service chiefs, and other individuals in similar positions would have to serve on a full-time basis although provision is made to allow persons currently serving in such positions on a part-time basis to continue to do so, and the Chief Medical Director would be authorized to make exceptions to this requirement, on both a categorical and individual basis, for persons serving as associate chiefs of staff or service chiefs, or in comparable positions. These proposals, if enacted, are designed to produce significant beneficial impact in the area where full-time status is most vital—at those positions where the health-care leadership is exercised at individual VA health-care facilities.

Mr. President, on the issue of the appropriate relationship between VA facilities and affiliated institutions, the bill proposes changes in existing law that are relatively minor but which should yield important results. Provisions in the bill would modify the statutory provisions relating to deans' committees and similar advisory committees at VA health care facilities that are affiliated with health care institutions to restrict the committees to matters of education and training at the affiliated institutions and to make clear that final decisions concerning employment at the VA facility shall not be delegated to any such committee. In addition, the bill would require that at least one-half of the membership of these committees consist of full-time VA employees, except that the Chief Medical Director could authorize a reduced proportion of full-time VA employee members of not less than one-fourth of the total membership. In addition, the bill would provide for a new form of advisory committee—a medical center advisory committee—to be established at each VA health care facility. This new committee would be an internal VA body made up of full-time VA physicians, dentists, and nurses representing the various services in the facility, together with representatives of veterans' service organizations, that would advise the VA facility management on all matters relating to the provision of health care at that facility.

PERSONNEL MANAGEMENT IMPROVEMENTS

Mr. President, as I mentioned earlier, there are a number of other provisions in the bill that are designed to provide the VA with greater flexibility in the management of its health care system. It is obvious that any health care system that seeks to provide the high quality and wide range of health care that the VA seeks to provide must rely on a highly trained interdisciplinary staff. Each member of this health care team plays a critical role in the treatment of every veteran served. Although the recruitment and retention of physicians and dentists is essential, it is equally essential—as I stressed during consideration of prior VA doctor special pay legislation—that the VA be able to recruit and retain other health care personnel, including nursing staff personnel and there are many provisions in the bill that are designed to improve the VA's capability and performance in this area. I would like to highlight briefly a few of those provisions.

First, the bill contains provisions designed to improve the VA's recruitment and retention of registered nurses. There have been numerous instances in the past year—especially in southern California where the problem is particularly acute—where the VA has had great difficulty in competing with the community for the skills of these personnel. Under provisions in the bill, the VA would have new authority to modify both entry and other levels of pay as well as rates of additional pay for nurses for work outside of regular work hours—such as on Sundays, holidays, and overtime—so as to increase the agency's ability to respond to changes in such rates of pay in the community on a more timely and effective basis.

The bill would also permit the Administrator to provide support for training for any registered nurse including any nurse practitioner, seeking a baccalaureate degree which should serve to make a VA career more attractive for nurse personnel. The bill also would require the Administrator to conduct a pilot program and study of the impact and cost effectiveness of combinations of various administrative actions—such as chang-

ing the normal work schedule to permit the use of flextime or compressed workweeks, establishing childcare centers where nursing personnel could leave their children while on duty, and other such actions—on the VA's recruitment and retention of nurses, as well as other nursing personnel.

Second, the bill would bring licensed practical or vocational nursing assistants into the title 38 statutory employment scheme. This change, which would give the Administrator far greater control over these very vital personnel than is available at present, with the Office of Personnel Management—OPM—having direct control over the positions, is necessary because, of all the health care personnel working in VA facilities who do not serve under title 38 provisions, licensed practical or vocational nurses and nursing assistants are the most involved in direct patient care services, and their role as nursing support personnel is critical to the smooth functioning of VA health care facilities. Under present law, the VA is unable, without waiting for extended periods for OPM approval, to make changes at local facilities to improve rates of pay or other conditions of employment for those personnel when such action is necessary and, indeed, urgent in order to recruit qualified nursing staff personnel to fill positions vacated by those who have left the VA for more attractive employment opportunities in the community, and in order to prevent further damaging attrition.

In addition, the VA's recruitment efforts with respect to these personnel has frequently been impaired by OPM's apparent inability or unwillingness to recognize the key differences between the two types of personnel despite the clear recognition in the health care community of the different preparation these personnel undergo and the different responsibilities they assume in the hospital environment. Under the changes proposed in the bill, these personnel would remain under title 5 provisions for the purposes of performance appraisals and adverse actions but would be placed under chapter 73 of title 38 for all other purposes relating to their employment, including premium pay. In furtherance of this change, the bill would provide a new pay schedule—a nursing support schedule—that establishes rates of pay for these personnel under title 38.

Third, the bill would give the Administrator authority to modify rates of pay on selected bases for health care personnel. Under the proposals contained in the bill, the Administrator would have the authority to modify entry and other rates of pay and rates of additional pay, such as for overtime service, when necessary to recruit or retain certain types of personnel. This authority would give the VA greater flexibility to meet hiring and retention problems that arise at different locations around the country when rates of pay in particular communities exceed those that the VA is authorized to pay so as to present a serious recruitment or retention problem.

Fourth, the bill would provide for payment of special pay under section 4118 to physician hospital directors when such directors are assigned significant medical duties. Since the special pay authority was first enacted in 1975, the number of hospital directors in the VA system who are physicians has decreased to the point that, today, there are only six such directors. This result is attributable to the fact that, although here is no explicit provision in the special pay, the VA—despite my consistent urging—has administratively barred such payment, relying on a provision in current law which authorizes the Chief Medical Director to determine categories of physicians or dentists which will not be eligible for special pay. In my view, this disincentive to physicians to serve as hospital directors results in a shortage of physicians who have had appropriate management experience that would best qualify them to serve in the top positions in D.M. & S. Thus, although the bill does not absolutely mandate the payment of special pay to physician hospital directors, it would establish the basis for such payment to an individual serving in that capacity when the director is assigned significant additional medical duties along with the administrative responsibilities ordinarily associated with serving as a facility director.

CONCLUSION

Mr. President, the legislation that I am introducing today contains many elements that are designed to address many different issues of great importance to the VA's health care efforts. In drafting this measure, significant effort has been made to put together the best possible legislation. I want to stress, however, that I remain openminded about the final form of the various key provisions and that I look forward to receiving comments from and working with the administration, veterans organizations, organizations representing VA employees, other organizations and groups with an interest in VA health care matters, and others with an interest in this legislation. I would expect that we will learn a great deal from our hearing on April 16 and that substantial improvements in the final legislation will result from the remainder of the committee process yet ahead. In sum, this is the first step in the development of this very important legislation, not a finished proposal.

Mr. President, in order that all Senators and the public may have a more complete understanding of the various provisions of this measure, I ask unanimous consent that there be printed in the RECORD at this point an analysis of the provisions of the bill followed by the text of the bill.

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

ANALYSIS OF S. 2534, THE PROPOSED VETERANS' ADMINISTRATION HEALTH-CARE PERSONNEL ACT OF 1980

Section 1. Would provide that this Act may be cited as the "Veterans' Administration Health-Care Personnel Act of 1980".

Section 2. Would amend section 6(a) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, Public Law 94-123, relating to the expiration of the VA's authority to enter into special pay agreements, to remove the termination date and, thus, make such authority permanent.

Section 3. Would amend present section 4101 of title 38, relating to the general organization of the VA's Department of Medicine and Surgery (DM&S), to exempt health-care profesionals employed in the DM&S title 38 personnel system from the provisions of title 5, United States Code, relating to the Senior Executive Service.

Section 4. Would amend present section 4104 of title 38, relating to the appointment of health-care personnel in DM&S, to add licensed practical or vocational nurses and nursing assistants to the categories of health-care personnel appointed by the Administrator under title 38.

Section 5. Would amend present section 4105 of title 38, relating to the qualifications of health-care personnel appointed under title 38, to require that licensed practical or vocational nurses and nursing assistants have medical and technical qualifications as prescribed by the Administrator.

Section 6. Would amend present section 4106 of title 38, relating to periods of appointments and promotions of title 38 health-care personnel, to include licensed practical or vocational nurses and nursing assistants among the health professionals covered by the provisions of the section and to specify provisions of title 5 that would continue to apply to such personnel. Those provisions of title 5 that would continue to apply would be section 3321 relating to the probationary period, which would remain at one year, and the provisions of subchapter I of chapter 43 and subchapters I and II of chapter 75, relating to performance appraisals and the termination and disciplinary protections and provisions.

Section 7. Would amend present section 4107 of title 38, relating to the pay of title 38 health-care personnel.

Clauses (1) and (2) would amend present subsections (a) and (b) to conform the DM&S salary schedules to the rates last established by executive order—No. 12165 of October 9, 1979—and to add a new salary schedule for nursing support personnel (licensed practical or vocational nurses and nursing assistants).

Clause (3) would amend present subsection (c) to substitute "health-care facility" for the phrase "hospital, domiciliary facility, or center", and to provide that a physician serving as a hospital director, is assigned significant additional medical duties by the Chief Medical Director, shall receive special pay pursuant to section 4118 of title 38. This provision would preclude the Chief Medical Director from making a determination, as at present, that there is no significant recruitment and retention problem as to physician hospital directors who are assigned significant additional medical duties.

Clause (4) would amend present subsection (e), relating to additional pay (e.g., overtime and standby duty) for nurses, to authorize the Administrator to increase the rates of such additional pay for nurses at specific VA facilities to establish additional pay rates competitive with the rates paid the same category of health-care personnel by non-Federal health-care facilities in the same geographic area; to provide that travel time by title 38 health-care personnel who are covered by the additional pay provisions of present subsection (e) (nurses, physician assistants, and expanded-function dental auxiliaries under current law and licensed practical or vocational nurses and nursing assistants by amendments proposed in this legislation) incidental to such employees' work shall, in certain specified instances, count as overtime work so as to establish eligibility for overtime pay; to authorize a procedure whereby title 38 health-care personnel covered by the subsection can be as-

signed to "on-call" duty at home—rather than having to be on duty at the hospital—on a holiday that falls during a regular work week, and establish a procedure relating to payment for overtime or on-call periods for VA employees paid under the General Schedule (non-title 38 employees) who are determined to be performing either direct patient-care services or services incident to direct patient-care services, which incorporates provisions from both title 5 and present subsection (e) and which provides such employees the opportunity to elect coverage under different provisions—such as on-call pay under title 38 or standby premium pay under title 5 so as to assure adequate flexibility within the VA in compensating these employees for such extra work periods.

Clause (5) would add to present section 4107 a new subsection (f) to provide that licensed practical or vocational nurses and nursing assistants are to receive basic compensation and additional pay under the Nursing Support Schedule (as proposed to be added by clause (2) of this section of the bill).

Clause (6) would add a new subsection (g) to present section 4107 to authorize the Administrator, when the Administrator determines it to be necessary to obtain or retain the services of title 38 health-care personnel or other VA employees providing direct patient-care services or services incident to direct patient-care services, to increase the rates of pay, within specified limits, for selected groups of personnel in specified geographic areas in order to provide rates competitive with the rates paid the same category of health-care personnel by non-Federal health-care facilities in the same labor market, to achieve adequate staffing at particular facilities, or to recruit personnel with specialized skills, especially skills which are difficult or demanding, such as work in intensive care or spinal cord injury units.

Section 8. Would amend present section 4108, relating to general personnel administration for title 38 employees, to add licensed practical or vocational nurses and nursing assistants to the categories of health-care personnel for whom the Administrator sets conditions of employment and to add new subsections (b) and (c) as follows:

New subsection (b) would generally require that a chief of staff of a VA medical center be a full-time VA employee who does not receive remuneration of any kind from an affiliated institution, either directly or indirectly. However, chiefs of staff serving on less than a full-time basis—there are presently seven in the system—or drawing remuneration from a non-VA source—as of 1978, the last year for which data are published, one-third of the chiefs of staff were receiving such outside remuneration although it is not apparent from available data the amounts of such remuneration received—on the effective date of this new subsection would be permitted to continue serving on a less than full-time basis and receiving such remuneration but, while doing so, would not be eligible for any increase in the special pay authorized pursuant to amendments to section 4118 made on or after the effective date.

New subsection (c) would generally require any person serving as an associate chief of staff or service chief or in a comparable position in a VA medical center to be a full-time VA employee. Individuals serving in any such capacity on less than a full-time basis on the effective date of the subsection would be permitted to continue serving on a part-time basis but, while doing so, would not be eligible for any increase in the special pay under amendments to section 4118 made on or after the effective date. The Chief Medical Director would be authorized to waive the prospective full-time requirement for specific categories of personnel (such as the chiefs of small services) or in individual cases when such waiver would be in the best interests of the Federal Government.

Clause (3) would authorize the Administrator to provide support for the training of VA registered nurses, including nurse practitioners, for a baccalaureate degree in nursing on the same basis that agency heads are authorized to support title 5 General Schedule employee training pursuant to section 4109 of title 5.

Section 9. Would amend present section 4109 of title 38, relating to retirement rights of DM&S employees, to add a new subsection providing that, after the effective date of the subsection, DM&S title 38 personnel serving on less than a full-time basis shall receive civil service retirement credit under title 5 for such future service only on a pro rata basis. Under current law, such service on a part-time basis accrues a full month's retirement credit for each month served on a part-time basis, no matter how little the part-time ratio.

Section 10. Would amend present section 4110 of title 38, relating to disciplinary boards to review charges against DM&S title 38 employees, to exclude licensed practical or vocational nurses and nursing assistants from the jurisdiction of such boards because (under existing section 4106, as proposed to be amended by section 6 of this bill) such personnel would remain subject to title 5 provisions relating to disciplinary matters.

Section 11. Would amend present section 4112 of title 38, relating to medical advisory bodies.

Clause (1) would amend subsection (b) of present section 4112, relating to certain advisory committees (the so-called "deans" committees) established at locations where VA facilities have an affiliation with one or more health-care professional training institutions by limiting the activities of such Committees to policy matters related to education and training at the VA facility and affiliated institutions and specifying that final decisions concerning employment at the VA facility must be made by the VA.

Clause (2) would further amend present subsection (b) to require that at least one-half of the membership of each such committee be full-time VA employees, unless, under certain circumstances, the Chief Medical Director permits the proportion to be reduced to no less than one-fourth.

Clause (3) would amend present section 4112 by adding a subsection (c), as follows:

New subsection (c) would require the establishment of a medical center advisory committee at each VA health-care facility to advise management at each such facility on all matters relating to the provision of health care to veterans. Each such committee would be chaired by the chief of staff of the facility or the next senior physician who is a full-time VA employee if the chief of staff is not full-time, and the membership would consist of one full-time physician or dentist and one nurse from each Service in the facility and representatives of veterans' service organizations.

Section 12. Would amend present section 4114 of title 38, relating to part-time and temporary full-time appointment authority under the DM&S title 38 personnel system, to add "licensed practical or vocational nurses and nursing assistants" to the categories of personnel who may be appointed under such authority.

Section 13. Would amend present section 4116 of title 38, relating to defense of certain malpractice suits against DM&S employees, to add "licensed practical or vocational nurses and nursing assistants" to the categories of title 38 personnel covered by this section.

Section 14. Would amend present section 4118 of title 38, relating to special pay for DM&S physicians and dentists, to increase the amounts of special pay authorized for certain purposes and to make other modifications to the schedule of special pay benefits. Specifically, this section would:

Increase the total amount of special pay authorized to be paid to eligible DM&S physicians and dentists to $23,500 and $10,000, respectively;

Modify the prohibition on payment of special pay to reemployed annuitants to permit such payment to those reemployed annuitants who were separated involuntarily under prior Federal law requiring mandatory retirement at age 70;

Increase the total amount of primary special pay authorized to be paid to eligible DM&S physicians to $7,000;

Increase the total amount of incentive special pay generally authorized to be paid to eligible DM&S physicians and dentists to $16,500 and $7,500, respectively;

Establish two schedules setting forth levels of incentive special pay, one for full- and part-time physicians, the other for full- and part-time dentists. In each schedule, individuals serving on a qualifying part-time (at least one-half time or greater) basis would be eligible for three-quarters of the proportional amount of the incentive special pay level established for a comparable full-time physician or dentist, such proportion to be calculated on the basis of the proportion which the part-time service bears to full-time employment. The amount of incentive special pay for which an individual is eligible would depend on the following factors: Full-time employment status (physicians, $6,000, and dentists, as in present law, $1,000), tenure within DM&S, scarcity of medical or dental specialty (physicians, from $4,000 up to $16,500, and dentists, from $2,000 up to $7,500), and increased professional or administrative responsibilities;

Authorize extra amounts of incentive special pay for board certification (primary and secondary) for physicians ($2,000 or $2,500) and for service by physicians (from $3,500 up to $5,000) and dentists (from $1,750 to $2,500), in geographic areas determined by the Chief Medical Director to entail extraordinary difficulties of recruitment and retention; and

Establish that the amount of special pay received by a physician or dentist would be considered as basic pay for the purposes of life insurance coverage under title 5 and, at the option of the physician or dentist concerned, applied on a phased-in schedule toward the amount of basic pay for retirement purposes under title 5, or, notwithstanding prohibitions in title 26 on individuals covered by a Federal Government retirement plan, be utilized as a basis for the establishment of an individual retirement account (IRA) under section 219 of the Internal Revenue Code (26 U.S.C. 408).

The provisions in the section would be effective with respect to pay periods beginning after March 30, 1981.

Section 15. Would amend present subchapter I of chapter 73 to add a new section 4119 to establish a Veterans' Administration Physicians' and Dentists' Pay Board.

New section 4119, entitled "Veterans Administration Physicians' and Dentists' Pay Board" would establish this new Board; it would consist of subsections (a) through (l), as follows:

Clause (1) of subsection (a) would provide for a board of five members appointed from private life, three by the Administrator of Veterans' Affairs, including at least one disabled veteran, and one each by the President of the Senate upon the joint recommendation of the majority and minority leaders of the Senate and by the Speaker of the House of Representatives.

Clause (2) of subsection (a) would provide that the terms of office for the members

first appointed to the Board would be: for the members appointed by the Administrator, one to serve until September 30, 1981, one until September 30, 1982, and one until September 30, 1983, and for those appointed by the President of the Senate upon the joint recommendation of the majority and minority leaders of the Senate and by the Speaker of the House, to serve until September 30, 1981.

Clause (3) of subsection (a) would establish that the term of service of members appointed to the Board after the expiration of the terms of the first members would be three years.

Clause (4) of subsection (a) would provide that vacancies on the Board would be filled in the same manner as was the original appointment.

Clause (5) of subsection (a) would require that, upon the expiration of a member's term, such member would continue to serve until such member's successor is appointed and qualified.

Clause (6) of subsection (a) would establish authority for Board members to receive pay at the rate prescribed for GS–18 of the General Schedule.

Subsection (b) would specify the duties of the Board including defining the bases for pay distinctions among various federal and non-federal physicians and dentists, obtaining measures of income of non-Veterans' Administration physicians and dentists for use as guidelines for setting and adjusting rates of special pay, and submitting an annual report to the President to include recommendations for changes in the rates or types of special pay.

Subsection (c) would require the President, after receiving the Board's recommendations, to submit to the Congress, as part of the President's budget submission, recommendations with respect to the exact rates of special pay for Veterans' Administration physicians and dentists.

Subsection (d) would provide that the recommendations submitted by the President pursuant to subsection (c) of this section would become effective unless the Congress or either house of the Congress took prescribed action to preclude such a result.

Subsection (e) would specify that the recommendations of the President for rates or types of special pay that become effective according to the terms of subsection (d) of this section would have the force and effect of law.

Subsection (f) would specify the manner for the publication of such pay recommendations as would become effective pursuant to subsections (d) and (e) of this section.

Subsection (g) would authorize the Board to appoint an Executive Director and other staff personnel as necessary, and to compensate such personnel at rates not in excess of the maximum rate for GS–18 of the General Schedule.

Subsection (h) would permit the Board to request and secure information and assistance from any department or agency of the United States in furtherance of the Board's mission.

Subsection (i) would authorize the head of any department or agency of the United States to detail personnel to the Board.

Subsection (j) would allow the Board to obtain the services of experts or consultants at rates not to exceed the rates for GS–18 of the General Schedule.

Subsection (k) would authorize the Board to accept uncompensated services and enter into such contracts and agreements as the Board deems necessary.

Subsection (l) could require the Administrator of General Services to provide administrative support to the Board on a reimbursable basis.

Section 16. Would require the Administrator to conduct a pilot program and study, of between twenty-four and thirty-six months duration, of the impact of taking various administrative actions on the Veterans' Administration recruitment and retention of sufficient qualified nursing personnel, including licensed practical or vocational nurses and nursing assistants. The pilot program and study, which would be conducted in at least six geographic areas where the agency has experienced difficulties in recruiting and retaining such sufficient qualified nursing personnel, would require the Administrator to take various administrative actions, including, but not limited to, a combination of each of the following actions: modification of existing work scheduled to permit nursing personnel to work on a flexitime basis or to work a compressed work week, establishment of onsite childcare centers where nursing and other personnel could leave their children while such personnel are on duty, provision of free parking for nursing personnel where such personnel would otherwise be required to pay for such parking, and enhanced programs of career development for nursing personnel, including appropriate support for outside educational opportunities. The Administrator would be required to report to the Congress the results of this pilot program and study not later than forty-two months after the date of enactment of the legislation and to include an evaluation of the cost factors of each alternative implemented and the impact on recruitment and retention of nursing personnel of each such alternative, together with recommendations for administrative or legislative action, or both, as may be indicated by the program and study results.

Section 17. Would provide that, with the exception of the changes in the rates of special pay for physicians and dentists which would be effective for the first pay period beginning after March 30, 1981, the provision of the Act would become effective on October 1, 1980.

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Health-Care Personnel Act of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 6(a) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, Public Law 94–123 (89 Stat. 669), is amended by striking out "(1)" and by striking out paragraph (2).

SEC. 3. Section 4101 is amended by—

(1) amending subsection (b) by striking out "manpower" and inserting in lieu thereof "personnel" each place such word appears; and

(2) adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, physicians, dentists, nurses and other health-care professionals employed by the Veterans' Administration's Department of Medicine and Surgery and appointed under authority of sections 4103, 4104(1), and 4114 of this title shall not be subject to the provisions of section 413 of the Civil Service Reform Act of 1978, and the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

SEC. 4. Section 4104(1) is amended by striking out "and" and inserting after "auxiliaries" a comma and "licensed practical or vocational nurses, and nursing assistants".

SEC. 5. Section 4105(a)(9) is amended by striking out "and" the first place it appears and inserting after "auxiliaries" a comma and "licensed practical or vocational nurses, and nursing assistants".

SEC. 6. Section 4106 is amended by adding at the end the following new subsection:

"(g) Licensed practical or vocational nurses and nursing assistants shall be appointed by the Administrator pursuant to the provisions of this section, except subsection (b), and without regard to the provisions of title 5, except that the probationary period set forth in section 3321 and the provisions of subchapter I of chapter 43 and subchapters I and II of chapter 75 of such title shall apply to such employees.".

SEC. 7. Section 4107 is amended by—

(1) amending subsection (a) to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

"Section 4103 schedule

"Chief Medical Director, $73,733.

"Deputy Chief Medical Director, $70,731.

"Associate Deputy Chief Medical Director, $67,747.

"Assistant Chief Medical Director, $65,750.

"Medical Director, $56,099 minimum to $63,759 maximum.

"Director of Nursing Service, $56,099 minimum to $63,759 maximum.

"Director of Podiatric Service, $47,889 minimum to $60,657 maximum.

"Director of Chaplain Service, $47,889 minimum to $60,657 maximum.

"Director of Pharmacy Service, $47,889 minimum to $60,657 maximum.

"Director of Dietetic Service, $47,889 minimum to $60,657 maximum.

"Director of Optometric Service, $47,889 minimum to $60,657 maximum.";

(2) amending subsection (b)(1) to read as follows:

"(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"Physician and dentist schedule

"Director grade, $47,889 minimum to $60,657 maximum.

"Executive grade, $44,219 minimum to $57,485 maximum.

"Chief grade, $40,832 minimum to $53,081 maximum.

"Senior grade, $34,713 minimum to $45,126 maximum.

"Intermediate grade, $29,375 minimum to $38,186 maximum.

"Full grade, $24,703 minimum to $32,110 maximum.

"Associate grade, $20,611 minimum to $26,794 maximum.

"Nurse schedule

"Director grade, $40,832 minimum to $53,081 maximum.

"Assistant Director grade, $34,713 minimum to $45,126 maximum.

"Chief grade, $29,375 minimum to $38,186 maximum.

"Senior grade, $24,703 minimum to $32,110 maximum.

"Intermediate grade, $20,611 minimum to $26,794 maximum.

"Full grade, $17,035 minimum to $22,147 maximum.

"Associate grade, $14,659 minimum to $19,060 maximum.

"Junior grade, $12,531 minimum to $16,293 maximum.

"Nursing support schedule

"NSS–6, $13,925 minimum to $18,101 maximum.

"NSS–5, $12,531 minimum to $16,293 maximum.

"NSS–4, $11,243 minimum to $14,618 maximum.

"NSS–3, $10,049 minimum to $13,064 maximum.

"NSS–2, $8,952 minimum to $11,634 maximum.

"NSS–1, $8,128 minimum to $10,327 maximum.

"Clinical podiatrist and optometrist schedule

"Chief grade, $40,832 minimum to $53,081 maximum.

"Senior grade, $34,713 minimum to $45,126 maximum.

"Intermediate grade, $29,375 minimum to $38,186 maximum.

"Full grade, $24,703 minimum to $32,110 maximum.

"Associate grade, $20,611 minimum to $26,794 maximum.";

(3) amending subsection (c) by—

(A) amending the first sentence by—

(i) striking out the comma after "law" and inserting "(1)" in lieu thereof, and

(ii) inserting before the period a comma and "and (2) a physician serving as a health-care facility director, if assigned significant additional medical duties by the Chief Medical Director, shall be paid special pay pursuant to section 4118 of this title"; and

(B) striking out "hospital, domiciliary facility, or center" and inserting in lieu thereof "health-care facility" each place such words appear;

(4) amending subsection (e) by—

(A) inserting at the end of paragraph (2) the following new sentence: "Notwithstanding any other provision of law, when the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities).";

(B) striking out "per centum" in paragraphs (2), (3), and (8) and inserting in lieu thereof "percent";

(C) inserting at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, hours of a nurse's officially ordered or approved travel away from such nurse's official duty station shall not be considered hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.";

(D) amending paragraph (8) by inserting "or on a holiday designated by Federal statute or Executive Order" after "regular hours"; and

(E) inserting at the end the following new paragraph:

"(10) The provisions of this subsection shall apply, in lieu of the provisions of sections 5542, 5545 (a) and (b), and 5546 of title 5, with respect to Department of Medicine and Surgery employees (other than administrative, clerical, and physical plant maintenance and protective services employees) who are paid under the General Schedule pursuant to section 5332 of title 5 and who are determined by the Administrator to be providing either direct patient-care services or services incident to such direct services, except as follows:

"(A) The compensatory time off provisions of section 5543 of title 5 shall apply in lieu of the compensatory time off provisions of paragraph (5) of this subsection; and

"(B) An employee may elect to receive either on-call pay under paragraph (8) of this subsection or standby premium pay under section 5545(c)(1) of title 5. An employee in receipt of such premium pay shall receive such premium pay on an annual basis in lieu of additional pay under this subsection, except that the employee shall receive additional pay as authorized under paragraph (5) of this subsection for overtime service outside the employee's tour of duty (including standby duty).";

(5) amending subsection (f) to read as follows:

"(f) Under standards which the Administrator shall prescribe in regulations, (1) basic pay for physician assistants and expanded-function dental auxiliaries shall be based on the "nurse schedule" grade titles and related basic pay ranges set forth in paragraph (1) of subsection (b) of this section and basic pay for licensed practical or vocational nurses and nursing assistants shall be based on "nursing support schedule" grade titles and related pay basic ranges set forth in such paragraph, and (2) physician assistants, expanded-function dental auxiliaries, licensed practical or vocational nurses, and nursing assistants shall be entitled to additional pay on the same basis as provided for nurses in paragraphs (2) through (8) and (10) of subsection (e) of this section."; and

(6) adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of law, when the Administrator determines it to be necessary in order to obtain or retain the services of physicians, dentists, nurses, physicians' assistants, expanded-function dental auxiliaries, licensed practical or vocational nurses, nursing assistants, or other health-care personnel determined under section 4107(e)(10) of this title to be providing either direct patient-care services or services incident to such direct services, that would not otherwise be available to provide medical care and treatment for veterans, the Administrator may increase the minimum intermediate, or maximum rates of basic pay authorized under this section, on a nationwide, local, or other geographic basis, for one or more grades listed in the schedules in subsection (b)(1) of this section or for one or more medical, nursing, or dental fields within such grades, in order to provide pay competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market, to achieve adequate staffing at particular facilities, or to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding. The amount of any such increase in the maximum rate for any grade may not exceed the amount by which the statutory maximum for such grade exceeds the statutory minimum for such grade, and the maximum rate so increased may not exceed the rate paid for Assistant Chief Medical Director under the 'section 4103 schedule' pursuant to subsection (a) of this section.".

SEC. 8. Section 4108 is amended by—

(1) amending subsection (a) by striking out "physician assistants, and expanded-function dental auxiliaries" the first time such phrase appears and inserting in lieu thereof "physician assistants, expanded-function dental auxiliaries, licensed practical or vocational nurses, and nursing assistants";

(2)(A) redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively,

(B) inserting the following new subsections (b) and (c):

"(b) Any person serving as a chief of staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis and shall not receive any renumeration of any kind from an affiliated institution or from any source connected with or associated with such affiliated institution, either directly or indirectly, while serving in such position, except that any individual serving as chief of staff on the effective date of this subsection may continue to serve in that capacity in the same manner and under the same terms and conditions of service and remuneration as are applicable on such effective date but shall not be eligible, so long as such individual continues to so serve, for any increase in the rates of special pay authorized by amendments to section 4118 of this title made on or after such effective date.

"(c)(1) Except as provided in paragraph (2) of this subsection, any person serving as an associate chief of staff, or service chief, or in a position comparable to service chief, as determined by the Chief Medical Director, in a Veterans' Administration health-care facility shall be appointed on a full-time basis, except that any person serving as an associate chief of staff, or service chief, or in a position comparable to service chief, as determined by the Chief Medical Director, on the effective date of this subsection may continue to serve in that capacity in the same manner and under the same terms and conditions of service and remuneration as are applicable on such effective date but shall not be eligible, so long as such individual continues to so serve, for any increase in the rates of special pay authorized by amendments to section 4118 of this title made on or after such effective date.

"(2) The Chief Medical Director, pursuant to regulations which the Administrator shall prescribe and upon finding that it is in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans, may (A) exempt categories of personnel who would otherwise be covered by the provisions of paragraph (1) of this subsection from the application of such provisions or, (B) upon application of the associate chief of staff, service chief, or other individual concerned, waive the provisions of such paragraph as to such individual with respect to a category not exempted under clause (A) of this paragraph."; and

(3) inserting at the end the following new subsection:

"(g)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and the health personnel education and training mission provided for in section 4101(b) of this title, of assuring an adequate supply of health personnel, the Administrator, under regulations which the Administrator shall prescribe, may provide support (including such support described in section 4109 of title 5 as the Administrator determines to be appropriate) for training of selected registered nurses, including nurse practitioners, employed by the Veterans' Administration for a baccalaureate degree in nursing subject to the execution by the employee selected for the training of a written employee agreement conforming to the provisions of section 4108 of title 5.

"(2) The authority granted the Administrator under paragraph (1) of this subsection is in addition to any authority granted the Administrator under chapter 41 of title 5.".

SEC. 9. Section 4109 is amended after the catchline to read as follows:

"(a) Except as provided in subsection (b)

of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitle to benefits under chapter 83 of title 5.

"(b) Notwithstanding any other provision of law, on and after the effective date of this subsection, a person serving in the Department of Medicine and Surgery on a less than full-time basis shall accumulate creditable service for the purposes of chapter 83 of title 5 on a proportionate basis equal to the fraction that such person's service after such date is of full-time service.".

SEC. 10. Section 4110(a) is amended by inserting a comma and "except for persons employed as licensed practical or vocational nurses or nursing assistants" before the period at the end of the first sentence.

SEC. 11. Section 4112 is amended by—

(1) striking out the second sentence of subsection (b) and inserting in lieu thereof: "The activities of such advisory committee shall be restricted to policy matters directly related to matters of education and training arising in connection with the program with respect to which it was appointed, and final decision concerning employment at the Veterans' Administration facility concerned shall be made only by the Administrator and shall not be delegated to any advisory committee or any other non-Veterans' Administration entity.";

(2) inserting before the period at the end of the last sentence in subsection (b) "in such a manner that at all times at least one-half of the membership of each such committee shall be full-time Veterans' Administration employees unless the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, that the health-care needs of veterans and the mission of the Department of Medicine and Surgery, as set forth in section 4101 of this title, require a lesser proportion of such employees in which case not less than one-fourth of the membership of such committee shall be full-time Veterans' Administration employees"; and

(3) adding at the end the following new subsection:

"(c) In addition to any advisory committee described in subsection (b) of this section, the Administrator shall, in each Veterans' Administration health-care facility, establish a medical center advisory committee. Each such advisory committee shall advise the medical center management with respect to all matters concerning the provision of health care to eligible veterans and dependents and shall be chaired by the chief of staff of the facility if such individual is a full-time Veterans' Administration employee or, if not, by the highest ranking chief of service who is a full-time Veterans' Administration employee or, if none, by the highest ranking physician on the medical center staff, as determined by the Chief Medical Director, who is a full-time Veterans' Administration employee. Members of each such advisory committee shall include one full-time physician or dentist, and nurse from each service in the medical center and, on a rotating basis, representatives of such veterans' service organizations as the Chief Medical Director shall prescribe.

SEC. 12. Section 4114(a) is amended by—

(1) amending paragraph (1)(A) by inserting after "auxiliaries" a comma and "licensed practical or vocational nurses, nursing assistants";

(2) amending paragraph (3)(A) by striking out "and" in the first sentence and inserting after "auxiliaries" a comma and "licensed practical or vocational nurses, and nursing assistants"; and

(3) amending paragraph (3)(B) by inserting "licensed practical or vocational nurses, nursing assistants," before "and interns".

SEC. 13. Section 4116(a) is amended by—

(1) inserting after "auxiliary" a comma and "licensed practical or vocational nurse, nursing assistant," each place it appears; and

(2) striking out "nursing assistants" in the parenthetical phrase.

SEC. 14. Section 4118 is amended by—

(1) amending subsection (a) by—

(A) amending paragraph (1) by striking out "$13,500" and "$6,750" and inserting in lieu thereof "$23,500" and "$10,000", respectively; and

(B) amending paragraph (2) by inserting before the period at the end a comma and "except that special pay may be paid to a reemployed annuitant who was separated involuntarily under section 8335 of title 5, relating to mandatory retirement at age 70".

(2) amending subsection (b) by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000";

(3) amending subsections (c) and (d) to read as follows:

"(c)(1) In the case of eligible full-time and part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) of this section and in accordance with regulations prescribed pursuant to subsection (a) of this section, incentive special pay of no more than $16,500 (except as otherwise provided in this section) to any eligible physician. In prescribing regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor, or a proportional amount of three-quarters of the following per annum amounts to any part-time physician to the extent eligible therefor, which proportional amount shall be equal to the fraction which the part-time employment in the Department of Medicine and Surgery of such physician is of full-time employment:

"(A)(i) For full-time status, $6,000;

"(ii) for tenure of service within the Department of Medicine and Surgery—

"(I) of three or more years, but less than five years, $1,000;

"(II) of five or more years, but less than eight years, $2,000;

"(III) of eight or more years, $3,000; and

"(iii) for service in a scarce medical specialty, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $4,000 and not more than $16,500.

"(B) For service—

"(i) as a Service Chief, or Associate Chief of staff (or in a comparable position as determined by the Chief Medical Director), $9,625;

"(ii) as a Chief of Staff or in an Executive Grade, $12,250;

"(iii) as a Deputy Service Director or in a Director Grade, $12,700;

"(iv) as a Service Director, $13,125;

"(v) as a Deputy Assistant Chief Medical Director, $14,000; and

"(vi) as Assistant Chief Medical Director or an Associate Deputy Chief Medical Director, $14,875.

"(C) For general or first board certification, $2,000; or for specialty or secondary board certification, $2,500.

"(D) For service in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified physicians in a specific category of physicians, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $3,500 and not more than $5,000.

"(2) In the case of eligible full-time and part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) of this section and in accordance with regulations prescribed pursuant to subsection (a) of this section, incentive special pay of no more than $7,500 (except as otherwise provided in this section) to any eligible dentist. In prescribing regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor, or a proportional amount of three-quarters of the following per annum amounts to any part-time dentist to the extent eligible therefor, which proportional amount shall be equal to the fraction which the part-time employment in the Department of Medicine and Surgery of such dentist is of full-time employment:

"(A)(i) For full-time status, $1,000;

"(ii) for tenure of service within the Department of Medicine and Surgery—

"(I) of three or more years, but less than seven years, $500;

"(II) of seven or more years, $1,000;

"(iii) for service in a scarce dental specialty, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $2,000 and not more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,250;

"(ii) as a Chief of Staff or in an Executive Grade, $3,000;

"(iii) as a Deputy Service Director or in a Director Grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000; and

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) for service in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified dentists in a specific category of dentists, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $1,750 and not more than $2,500.

(3)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1) or (2), (whichever is applicable) of this subsection.

"(B)(i) A physician or dentist serving as a service chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under clauses (A)(i) and (iii) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a chief of staff on a full-time basis may be provided incentive pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to a physician or dentist for the purpose of determining the applicability to such special pay of the limitation specified in subsection (a) of this section on the total amount of such special pay, and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such

subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician under subsection (c)(1)(C) of this section for certification and any special pay provided under subsection (c)(1)(D) or (c)(2)(C) of this section for service in certain geographic locations.".

(4) amending subsection (e)(1) by striking out the third sentence thereof; and

(5) amending subsection (f) to read as follows:

"(f)(1) Any additional compensation provided as special pay under this section shall be considered as basic pay for the purpose of chapter 87 of title 5.

"(2) At the election of any physician or dentist serving on a full-time basis in the Department of Medicine and Surgery who receives additional compensation provided as special pay under this section, such amount of additional compensation may either—

"(A) be considered as basic pay, and the provisions of section 8334 of title 5 shall apply to the full amount of such additional compensation, for the purposes of chapter 83 of such title in accordance with the following schedule:

"(i) effective after September 30, 1981, 20 percent of such additional compensation shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(ii) effective after September 30, 1984, 40 percent of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(iii) effective after September 30, 1986, 60 percent of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(iv) effective after September 30, 1988, 80 percent of such additional compensation, which has been received begining after September 30, 1981, shall be creditable in the computation of average pay in section 8339 of title 5; and

"(v) effective after September 30, 1989, 100 percent of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5; or

"(B) be used, notwithstanding the prohibition in section 219(b)(2)(A)(i) of title 26, relating to individuals covered by retirement plans established by the United States for its employees, or any other provision of law, to establish, in accordance with section 408(a) of such title, an individual retirement account described in such section. Such amount of additional compensation and such account shall, for purposes of such title, be treated as earned income paid into an account established pursuant to such section and an account so established, respectively.

"(3) Except as otherwise provided in paragraphs (1) and (2) of this subsection, any additional compensation provided as special pay under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55 or chapter 81 of title 5, or for the purposes of other benefits related to basic pay.".

(f) The amendments made by this section shall apply with respect to pay periods beginning after March 30, 1981.

SEC. 15. (a) Subchapter I of chapter 73 is further amended by adding at the end thereof the following new section:

"4119. Veterans' Administration Physicians' and Dentists' Pay Board

"(a)(1) There is established a Veterans' Administration Physicians' and Dentists' Pay Board to be composed of five members who shall be appointed from private life as follows:

"(A) three appointed by the Administrator of Veterans' Affairs, to include at least one disabled veteran, one of whom shall be designated by the Administrator to chair the Board;

"(B) one appointed by the President of the Senate upon the joint recommendation of the majority and minority leaders of the Senate; and

"(C) one appointed by the Speaker of the House of Representatives.

"(2) The terms of office of persons first appointed as members of the Board shall be:

"(A) the terms of the members appointed by the Administrator shall expire, as designated by the Administrator at the time of appointment, one on September 30, 1981, one on September 30, 1982, and one on September 30, 1983; and

"(B) the terms of the members appointed under paragraph (1)(B) and (C) of this subsection shall expire on September 30, 1981.

"(3) Beginning with the appointments made following the end of fiscal year 1981 and thereafter, the term of persons appointed as members of the Board shall be for the period of the fiscal year in which such appointment is made and for the two succeeding fiscal years.

"(4) A vacancy in the membership of the Board shall be filled in the manner in which the original appointment was made, and an appointment to fill a vacancy occurring before the expiration of a term shall be for the period ending on the date on which such term expires.

"(5) Upon expiration of a member's term, such member shall continue to serve until such member's successor is appointed and qualified.

"(6) Members of the Board shall receive compensation at the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses, at rates provided for in subchapter I of chapter 57 of such title, incurred by them in carrying out their duties as members of the Board.

"(b) To assist the President in carrying out the Congressional policy of assuring that the pay for Veterans' Administration physicians and dentists is fixed at levels reasonably comparable with the total remuneration of physicians and dentists employed elsewhere in the Federal Government and with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing quality care for all eligible veterans in Veterans' Administration health-care facilities, the Board shall—

"(1) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between Veterans' Administration and other Federal sector physicians and dentists and between all Federal and non-Federal sector physicians and dentists;

"(2) obtain measures of income from employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting amounts of special pay for Veterans' Administration physicians and dentists;

"(3) submit a report annually to the President, on such date as the President may designate but not later than December 31 of each year, recommending appropriate amounts of special pay to fulfill the policy set forth in this subsection with respect to Veterans' Administration physicians and denists; and

"(4) include in such recommendations, when considered appropriate and necessary by the Board, modifications of the special pay levels set forth in section 4118(c) of this title (A) whenever the Veterans' Administration is unable to recruit or retain a sufficient workforce of well-qualified physicians and dentists because income for non-Veterans' Administration physicians and dentists performing specialized types of duties is substantially in excess of the total pay levels (including basic pay and special pay) for Veterans' Administration physicians and dentists, or (B) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(c) The President shall include, in the budget next transmitted to the Congress after the date of the submission of the report and recommendations of the Board under subsection (b)(3) of this section, recommendations with respect to the exact rates of special pay for Veterans' Administration physicians and dentists pursuant to section 4118 of this title. As used in this subsection, the term "budget" means the budget referred to in section 11 of title 31.

"(d)(1) Except as provided in paragraph (2) of this subsection, the recommendations of the President transmitted to the Congress in the budget under subsection (c) of this section shall become effective at the beginning of the first pay period which begins after the sixtieth day following the transmittal of such recommendations in the budget, but only to the extent that such recommendations are not inconsistent with either—

"(A) any statute enacted into law between the date of transmittal of such recommendations in the budget and the beginning of such first pay period which establishes rates of pay other than those proposed by all or part of such recommendations; or

"(B) any resolution, approved by either House of the Congress between such date and day, which specifically disapproves all or part of such recommendations.

"(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made effective on a date later than the date on which such recommendations otherwise were to take effect, but on a date no later than the first day of the next fiscal year.

"(e) The recommendations of the President transmitted to the Congress pursuant to subsection (c) of this section which become effective as specified in subsection (d) of this section shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations, and

"(B) any prior recommendations of the President under this section.

"(f) The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

"(g) To assist the Board in carrying out its functions, the Board shall appoint an Executive Director, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia and such additional staff personnel as may be necessary, and fix the compensation of such executive director and additional staff personnel, without regard to chapter 51 and subchapter III of chapter 53

of title 5, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title.

"(h) The Board may secure from any department or agency of the United States information, estimates, statistics, suggestions, and technical assistance for the purpose of carrying out its functions. Each such department or agency shall furnish to the Board, upon the Board's request, such information, estimates, and statistics as it is otherwise authorized to furnish and as relate to such department or agency, and such suggestions and technical assistance as are within each such department's or agency's capability.

"(i) On request of the Board, the head of any department or agency may detail, on a reimbursable basis, any of its personnel to assist the Board in carrying out its functions.

"(j) The Board may obtain the services of experts or consultants in accordance with section 3109 of title 5, but at rates for individuals not to exceed that for GS–18 of the General Schedule under section 5332 of title 5.

"(k) The Board may, for purposes set forth in this section, and notwithstanding any other provisions of law, accept uncompensated services and enter into contracts and agreements with private or public agencies or persons, for such services (including personal services) as the Board may deem necessary.

"(l) The Administrator of General Services shall provide administrative support service for the Board on a reimbursable basis.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4118 the following new item:

"4119. Veterans' Administration Physicians' and Dentists' Pay Board.".

SEC. 16. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel, including licensed practical or vocational nurses and nursing assistants, capable of providing quality care for eligible veterans in Veterans' Administration facilities, the Administrator shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in at least six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel, and, in the course of such study, shall take various administrative actions to overcome such difficulties, including, but not limited to, combinations of each of the following actions:

(1) Modification of existing work schedules for nursing personnel so as to allow such nursing personnel to work on a flexitime basis or to work a compressed workweek and other variations in workday and workweek schedules as provided for in the "Federal Employees Flexible and Compressed Work Schedules Act of 1978", Public Law 95–390.

(2) Establishment of on-site childcare centers at Veterans' Administration healthcare facilities for the care of the children of nursing personnel and other Federal employees while such personnel are on duty.

(3) Provision of free parking for nursing personnel at Veterans' Administration facilities at which such personnel would otherwise be required to pay for such parking.

(4) Enhanced programs of career development for nursing personnel, including appropriate support for outside educational opportunities to support such career development programs, including application of the authority provided in section 4108 of this title and section 4109 of title 5.

(b) Not later than forty-two months after the date of enactment of this Act, the Administrator shall report to the Congress on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

SEC. 17. Except as provided in section 14(f) of this Act, the provisions of this Act shall become effective on October 1, 1980.●

By Mr. DOLE (for himself and Mr. ROTH):

S.J. Res. 159. A joint resolution disapproving the action taken by the President under the Trade Expansion Act of 1962 in imposing a fee on imports of petroleum or petroleum products; to the Committee on Finance.

DISAPPROVING THE FEE ON IMPORTED OIL

● Mr. DOLE. Mr. President, this afternoon, President Carter has issued a proclamation which should concern every Member of Congress and every American citizen. This proclamation will impose a more than $12 billion new Federal tax burden on the American people. In name it is a substantial new oil import fee, whose cost will be shifted to all gasoline sales. But behind the smokescreen of authorities, regulations, and assumptions, it comes down to a highly inflationary tax imposed by Presidential decree, without regard to the constitutional prerogatives of the Congress.

The stated legal justification for these drastic actions is section 232 of the Trade Expansion Act of 1962, which authorizes the President to adjust imports for national security reasons; and the Emergency Petroleum Allocation Act, which provides temporary authority to allocate scarce petroleum supplies. I have long been troubled that section 232 delegates far too much authority to the President to increase the duties of oil imports, without further approval by Congress. In recent Congresses, the Senator from Kansas and several other Senators have introduced bills to restrict that authority so that the President could not impose unlimited new tax and energy burdens on the American consumer by the backdoor of section 232.

President Carter's latest proposed use of section 232, however, must arouse even those who have been reluctant in the past to limit that authority. Whatever justification might be argued for Presidential authority to limit imports that threaten the national security, it is inconceivable that the Congress ever intended section 232, even strung together with separate emergency allocation authority, to permit the President to impose fixed new Federal taxes on gasoline.

There is a very serious question whether the courts will sustain this attempted further extension of Presidential discretion. To take a blatant example of the twisted logic and law of this proclamation, the import fee will rise if imports decline, and the fees will decrease if imports increase.

But we in this body need not and must not await the outcome of lengthy court proceedings. Congress cannot allow this attempt to usurp our constitutional responsibilities for taxation. Even those who may be tempted to allow this action as a way to finance our bloated budget without having to take political responsibility must consider the long-term consequences of abdicating to the President our constitutional responsibilities over the budget.

Even the White House admits this tax will be highly inflationary. Gasoline prices will rise by 10 cents per gallon, and even the White House acknowledges that the overall inflation rate will ultimately rise by three-quarters of a percent as a result of this action. Of course, if OPEC sees the fee as showing them how much more they can raise prices, the inflationary effect will be that much more.

All this burden of increased taxes and increased inflation is promulgated in the name of saving 100,000 barrels per day of oil in the first year. I think many of us would question whether this much more inflation and tax burden was worth these savings, but of course we were not even allowed to make that judgment since the President acted alone.

Of course, President Carter has also told us that he will withdraw his taxation by decree if we will only enact by proper constitutional procedures the same tax he has imposed. Now, if he later changes his mind or if he does not like a different judgment congress might make, who knows whether he might not even increase the tax based on the new powers he thinks he has discovered.

Fortunately, the Congress has just approved a provision in the crude oil Windfall Profit Tax Act which enables expedited disapproval of Presidential actions to adjust petroleum imports under section 232. Under the new law, any such Presidential action will cease to have effect upon enactment of a joint resolution of disapproval. Such a joint resolution cannot be amended in either House. While the resolution could be vetoed by the President, that veto can also be overridden by two-thirds vote of both Houses.

Senator ROTH and I are introducing such a resolution today, and we hope that you will join us in this effort. It is important that we quickly show the President and the American people that we will not allow enormous new taxation and inflation by Presidential decree.

Frankly I think we will need to go still further to prevent future abuses of section 232, and I intend at a later date to ask your support for amendments to the law. In the meantime, however, let us use the new statutory procedures to give relief to the American people.●

ADDITIONAL COSPONSORS

S. 1794

At the request of Mr. MELCHER, the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Hawaii (Mr.

INOUYE) were added as cosponsors of S. 1794, a bill to amend the Public Health Service Act to provide for research concerning Reye's Syndrome, and for other purposes.

S. 2071

At the request of Mr. COHEN, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2071, a bill to provide cancellation of student loans made or guaranteed under the Higher Education Act of 1965 for military service, and for other purposes.

S. 2239

At the request of Mr. NELSON, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2239, a bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of incentive stock options.

S. 2308

At the request of Mr. THURMOND, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2308, a bill to amend section 2003 of title 38, United States Code, to provide for the assignment of clerical or secretarial employees to assist veterans' employment representatives assigned to the States under such section.

S. 2366

At the request of Mr. HUDDLESTON, the Senator from Mississippi (Mr. COCHRAN), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2366, a bill to require adjustments in census population figures for aliens in the United States illegally so as to prevent distortions in the reapportionment of the House fo Representatives, the legislative apportionment and districting of the States, and the allocation of funds under Federal assistance programs.

S. 2470

At the request of Mr. FORD, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2470, a bill to reduce consumption of petroleum and natural gas by electric utilities and for other purposes.

SENATE JOINT RESOLUTION 119

At the request of Mr. SARBANES, his name was added as a cosponsor of Senate Joint Resolution 119, a joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc. to erect a memorial.

SENATE CONCURRENT RESOLUTION 85—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO ADVISORY OPINIONS FROM THE WORLD COURT

Mr. CRANSTON submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 85

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) direct the permanent representative of the United States to the United Nations to propose to the United Nations General Assembly the adoption of a resolution which establishes a Special Committee authorized—

(A) to seek an advisory opinion of the International Court of Justice, upon request by a national court or tribunal which is duly authorized by national legislation to make such request, regarding any question of international law of which such court or tribunal has jurisdiction; and

(B) to establish procedures providing adequate opportunities for the presentation to the International Court of Justice of the views of each party to the case before the court or tribunal requesting such advisory opinion; and (2) after the establishment of the Special Committee, propose legislation to the Congress which—

(A) authorizes Federal courts to request such advisory opinions; and

(B) establishes procedures whereby any Federal court may submit such requests to the Special Committee.

(C) defines the scope of the acceptance by the United States of the expanded jurisdiction of the International Court of Justice.

RESOLUTION ON ADVISORY OPINIONS FROM THE WORLD COURT

● Mr. CRANSTON. Mr. President, I am today submitting a concurrent resolution designed to make greater use of the International Court of Justice—better known as the World Court. The purpose of this resolution is to put the Congress on record in support of a proposal to authorize a Special Committee of the United Nations to seek, upon the request of national courts and tribunals, advisory opinions from the World Court on questions of international law. The intent of this resolution is to make better use of the Court's potential role as a peaceful arbiter in international affairs, a role which the Court has not yet fulfilled.

Mr. President, I have no illusions about the ability of our primary international institutions—the U.N. and the World Court—to solve singlehandedly all of the complex problems on our troubled planet. These institutions offer no panacea. But I believe it is especially important during the current time of heightened international tension for us to continue to make progress toward the long-term goal of strengthening the peaceful dispute-resolution mechanisms of the U.N. and the World Court. While I share the disappointment of many Americans that these mechanisms have been of only limited effectiveness in the curent confrontations in Iran and Afghanistan, I believe recent experience argues for the strengthening of the jurisdiction and enforcement powers of our international institutions—and not for their abandonment.

The fact is that there are no more promising institutions available for peaceful resolution of international conflicts than the U.N. and the World Court. The status of these institutions is akin to Churchill's view of democracy, which the great British leader noted was "the worst form of government—but for all the others." Just as democracy has proven an imperfect—but clearly the best—form of national government, the U.N. and the World Court still hold the best long-term promise for the goals of achieving greater international justice and more enduring peace among nations.

These goals cannot be realized overnight. They cannot be achieved in a year, or even in a decade. These efforts will take many years before fruition. But I, for one, believe it is essential for us to retain our hopes for a more peaceful and just human future. Even as we proceed to modernize our military defenses with a coolheaded realism, we must not lose sight of our long-term ideals of building a peace defended not by arms alone, but by international cooperation and the rule of law as well.

The step which I am proposing today is admittedly a very small one. I am urging that the United States take an initiative in the U.N. to establish a special committee authorized to accept requests from individual countries to have their national courts receive advisory opinions from the World Court on issues involving international law. The requests for such opinions would be made voluntarily to the U.N. committee by national courts and the World Court opinions would be nonbinding, and thus would not pose any threat to national sovereignty. But the increasing use of such opinions would expand the purview of the World Court and would make better use of the Court's woefully underutilized capabilities, two accomplishments which I believe would be of considerable significance.

This resolution also requests the U.S. permanent representative at the U.N. to coordinate, after the establishment of the Special U.N. Committee, the proposal of appropriate U.S. legislation authorizing Federal courts to request such advisory opinions. Such legislation would also serve to define the scope of U.S. acceptance of the jurisdiction of the World Court.

The genesis of the proposal which I am introducing today can be traced to a series of resolutions relating to the World Court which I introduced along with my former colleague, Senator Taft, in May 1974 and which were adopted by the Senate later that year. The last of these resolutions, Senate Resolution 78, initiated a State Department study on means of increasing access to and use of the World Court. In the State Department's 1977 report and again in 1978—in the President's submission to the Senate Foreign Relations Committee entitled "Proposals for U.N. Reform"—the executive branch has endorsed establishment of a preliminary opinion procedure whereby national courts could voluntarily submit questions of international law to the World Court for advisory opinions.

The resolution which I am introducing today is designed to establish such a procedure through the formation of a special U.N. committee. This proposal enjoys the preliminary support of the ABA Section of International Law and such noted international legal scholars as Prof. Louis Sohn of Harvard Law School. I commend this resolution to the attention of my colleagues and would welcome their support in taking this small but significant step.●

SENATE RESOLUTION 400—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the

following original resolution, which was ordered placed on the calendar:

S. RES. 400

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Lillie M. Hines, widow of James E. Hines, an employee of the Architect of the Capitol assigned to duty in the Senate wing of the Capitol at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 401—SUBMISSION OF A RESOLUTION DISAPPROVING ASPECTS OF PROPOSED MODEL ADOPTION LEGISLATION AND PROCEDURES

Mr. TOWER (for himself and Mr. HUMPHREY) submitted the following resolution, which was referred to the Committee on Labor and Human Resources:

S. RES. 401

Resolved, That it is the sense of the Senate that the Secretary of Health and Human Services shall not approve any portion of the Model State Adoption Act and Procedures prepared under section 202 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 which—

(1) confers upon all biological fathers of children born out of wedlock, without distinction, the right to veto adoption of the child upon mere proof of paternity,

(2) sets less stringent standards for the placement of children by unlicensed intermediaries than by licensed child-placing agencies,

(3) gives parents the right to revoke relinquishments which have not been obtained through fraud, duress, or undue influence,

(4) requires automatic opening at the request of an adult adoptee of confidential birth records, court records, and adoption agency records, and

(5) requires agencies to notify adult adoptees that a birth parent desires to meet the adoptee even if the adoptee has not expressed a desire to meet with his birth parents.

● Mr. TOWER. Mr. President, on October 27, 1977, the Senate passed H.R. 6693. That bill, which became Public Law 95–266 on April 24, 1978, contained provisions designed to eliminate barriers to adoption of children who could benefit by adoption. To accomplish this laudable purpose, the law called for the Secretary of the Department of Health, Education, and Welfare to convene a panel to develop model adoption legislation and procedures.

On February 15, 1980, the Secretary published for public comment in the Federal Register the 78-page panel draft proposed as the Model State Adoption Act. After carefully reviewing the contents of the proposed Model Act, I firmly believe, in the areas enumerated below, that the HEW panel exceeded the scope of its authority and ignored the intent of Congress, thereby creating a number of new problems—social as well as legal—which actually will make it more difficult to free children for adoptive placement.

There are five areas in particular which cause me great concern:

First. The panel draft confers upon any man who can prove that he is, in fact, the biological father of a child born out of wedlock the right to obtain custody of the child by proving the fact of paternity. In effect, the rapist under the Model Act apparently has greater rights than his victim. Rights of biological fathers must be recognized, but they must not prevail over the rights of children;

Second. The panel draft does not require doctors, attorneys, clergymen, and other unlicensed "intermediaries" to comply with the same minimum child placing standards required of agencies licensed to place children for adoption. Children placed by unlicensed intermediaries need no less protection than children placed by licensed agencies.

Third. No parent should ever be allowed to sign a relinquishment of parental rights while that parent still feels that "I might change my mind later." Relinquishments should, in the absence of fraud, duress, or undue influence, be final when given. The panel has suggested that parents be given 14 days during which they may revoke relinquishments. This provision will unnecessarily delay thousands of infant adoptions every year while encouraging parents to sign relinquishments before they are ready;

Fourth. The panel recommended opening confidential birth, court, and agency records as a matter of right to adult adoptees. This proposal can be detrimental to the biological parents, their families, to the parent-child relationship in the adoptive home, and even to the adoptee himself. Retroactive opening of sealed adoption records will not open a single adoptive home to a child in need of adoptive placement; and

Fifth. The panel has also recommended that biological parents be given the right to force agencies to contact adult adoptees to request a meeting. This could precipitate an identity crisis in an adoptee who has never sought to trace his biological origins. Searches of this nature should be initiated only by the adoptee, and only when that adoptee is ready.

It is my belief that in dealing with each of these areas, the panel has exceeded its congressional mandate. The intent of Congress was to remove barriers to adoptive placement, not create them.

Facilitating birth parents' searches for children adopted by others will not promote adoption of hard-to-place children. Legitimating dual standards for adoptive placements—tough standards for agencies and loose standards for unlicensed intermediaries—will not promote adoption of hard-to-place children but may facilitate the black market placement of easy-to-adopt infants. Allowing parents to retract relinquishments, which should be permanent when given, will delay countless adoptions and will promote adoptions only if parents sign, and then fail to revoke, relinquishments before they are ready to make a final decision. Giving biological fathers—including rapists, incestuous family members, sperm donors, and "hit and run" lovers—automatic veto power over a proposed adoption will block untold numbers of adoptions and bring undue and unnecessary suffering not only to the children but to thousands of unwed teenagers as well.

Opening birth records will not promote the adoption of hard-to-place children. In expressing this belief, I am not suggesting that sealed records should never be opened. When, under what circumstances, and subject to what conditions birth records may be opened are issues to be determined by our State legislatures. Many are now considering open-records legislation. In the meantime, I note that informal search networks exist through which birth parents and adoptees may pursue their mutual desires for reunion. A few States have already created formal registries to facilitate the voluntary reunion process. In most States, an adoptee with a genuine need for information concerning natural origins can, by proving that need through judicial or administrative proceedings, secure release of the information needed. I am not ready to tell State legislators that they are wrong in refusing to enact open-records-upon-demand legislation. Under our Federal system, that is a matter for their decision.

A good friend and fellow Texan, the late Sproesser Wynn, served on the model adoption panel. He had the same reservations about the panel's proposals and expressed his concern in a minority report to the model State Adoption Act.

In addition to these and other specific provisions, I am concerned about the Federal Government's involvement to this great an extent in the area of adoptions. Adoption is a matter traditionally handled at the State level. I am aware that the panel's work is only the draft of the Model State Act. Nevertheless, it is the first time that the Federal Government has intervened to such an extent in this area. This activity at the Federal level proposes Federal goals in an area better dealt with at the State level, where officials are more knowledgeable about, and better equipped to deal with, the particular problems involved. For these reasons, today I am introducing a resolution expressing the concern of the Senate over these enumerated proposals contained in the Model State Adoption Act. I urge my colleagues to join with me in expressing to the Department of Health and Human Services concern that these proposals will make most adoptions more difficult, in direct contradiction to congressional intent; and that they greatly exceed the scope of the authority granted by Congress to eliminate barriers to adoption so that children—especially those with special needs—can find permanent and loving home environments.

To further reassure those who are concerned about the implications of this Federal intrusion into family life, I hope the Senate will firmly reiterate its unwillingness, now and for the future, to put any pressure—including financial pressure—on States to enact such provisions.●

AMENDMENTS SUBMITTED FOR PRINTING

CRIMINAL CODE REFORM ACT—S. 1722

AMENDMENT NO. 1690

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. CANNON, Mr. DOLE, Mr. GOLDWATER, Mr. NUNN, Mr. LAXALT, Mr. SCHMITT, Mr. ARMSTRONG, Mr. HEFLIN, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them, jointly, to S. 1722, a bill to codify revise, and reform title 18 of the United States Code, and for other purposes.

● Mr. MATHIAS. Mr. President, today I am joined by nine of my distinguished colleagues (Mr. CANNON, Mr. DOLE, Mr. GOLDWATER, Mr. NUNN, Mr. LAXALT, Mr. SCHMITT, Mr. ARMSTRONG, Mr. HEFLIN, and Mr. HUMPHREY) in submitting an amendment to S. 1722, the Criminal Code Reform Act, that would strike the provisions of this bill that would reduce the penalties for possession of marihuana, thereby retaining current law.

I ask unanimous consent that this amendment be printed in the RECORD.

I also request that a three-part series that appeared in the Washington Star last week on the health effects of marihuana use be printed in the RECORD in full following the amendment.

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

AMENDMENT NO. 1690

On page 153, line 11, strike out "300 grams of marihuana", and insert "50 kilograms of marihuana or hashish, or 5 kilograms of hashish oil".

On page 153, line 14, strike "or".

On page 153, line 15, insert "or" after the semicolon.

On page 153, between lines 15 and 16, insert the following:

"(C) more than one kilogram of marihuana or hashish, or 100 grams of hashish oil;".

On page 153, line 16, strike out "a substance" and insert a dash.

On page 153, line 17, strike out "listed in schedule IV;", and insert the following:

"(A) a substance listed in Schedule IV; or

"(B) less than one kilogram of marihuana or hashish, or 100 grams of hashish oil;".

On page 153, line 18, strike the dash and insert "a substance listed in Schedule V;".

On page 153, strike out lines 19 through 22.

On page 153, strike out lines 34 through 36.

On page 153, line 37, strike out "(d)" and insert "(c)".

On page 154, line 1, insert "or" after the semicolon.

On page 154, strike out line 2.

On page 154, line 3, strike out "(C)" and insert "(B)".

On page 154, line 3, strike out the semicolon and insert a period.

On page 154, strike out lines 4 through 18.

On page 383, line 16, strike out "404,".

On page 407, between lines 35 and 36, insert the following:

"(f) Section 404(a) (21 U.S.C. 844(a)) is amended by striking out "a controlled substance unless such substance" and inserting in lieu thereof "marihuana, hashish, or hashish oil unless such marihuana, hashish, or hashish oil".

On page 407, line 36, strike out "(f)" and insert in lieu thereof "(g)".

On page 407, line 38, strike out "(g)" and insert in lieu thereof "(h)".

On page 408, line 6, strike out "(h)" and insert in lieu thereof "(i)".

On page 408, line 8, strike out "(i)" and insert in lieu thereof "(j)".

On page 408, line 10, strike out "(j)" and insert in lieu thereof "(k)".

On page 408, line 17, strike out "(k)" and insert in lieu thereof "(l)".

NEW WORRIES SURFACING ABOUT THE EFFECTS OF POT

(By Cristine Russell)

MARIJUANA

(The motion picture you are about to see may startle you. It would not have been possible otherwise to sufficiently emphasize the frightful toll of the new drug menace, which is destroying the youth of America in alarmingly increasing numbers.

(Marijuana is that drug . . . an unspeakable scourge—the real Public Enemy Number 1. Its first effect is sudden, violent, uncontrollable laughter; then come dangerous hallucinations . . . fixed ideas come next, conjuring up monstrous extravagances—followed by emotional disturbances, the total inability to direct thoughts, the loss of all power to resist physical emotions . . . leading finally to acts of shocking violence . . . ending often in incurable insanity. . . .

(Something must be done to wipe out this ghastly menace.)

A 1936 American film called "Reefer Madness" depicted a growing nationwide hysteria over the reputed evils of marijuana. The melodrama portrayed an innocent group of high school kids drawn—by the drug—into a den of iniquity, with a hit-and-run accident, a death and a suicide as the result.

The above indictment of marijuana, from the introduction to the film, was based on emotion rather than fact because at that time few scientific studies of "reefer" had been conducted.

By the 1960s, as marijuana use became fashionable on college campuses, the film had become a camp classic, viewed with amusement by pot smokers. Marijuana was then considered by many to be generally harmless.

Today, the pendulum has swung once again.

"What seems quite clear now is that both the horror stories that pervaded the first part of this century and the over-enthusiastic assessment of marijuana of more recent years were equally without a data base," says Dr. Sidney Cohen, a University of California psychiatrist with long experience in the drug abuse field.

He once dismissed marijuana as just "a trivial weed." But after more than a decade of intensive laboratory study, Cohen and many other researchers have become increasingly concerned about new findings of potential health damage from abuse of the widely available drug.

"We're at a real turning point. There's a growing crescendo of scientific evidence about the problems with marijuana. I've changed from thinking it's relatively insignificant compared to heroin to considering it the most important single issue in the drug field," says Dr. Robert L. Dupont, a former government drug abuse official.

The heightened concern also stems from surveys showing that more and more young Americans are regularly smoking marijuana—alias pot, grass, or weed—which in recent years has become far more potent through more sophisticated cultivation techniques.

"For the most important group of users, the teens and sub-teens, it's a demonstrated serious public health hazard," warns Dr. William Pollin, director of the National Institute on Drug Abuse.

The growing problem among America's youth will be the major emphasis of a soon-to-be-released government report to Congress on the health effects of marijuana. The federal drug abuse agency is also launching a major nationwide educational effort directed at warning teenagers about the hazards of the drug.

The combination of damaging, but often inconclusive, research and the dramatic climb in consumption by adolescents has also contributed to a phenomenal growth in grassroots parents groups opposed to marijuana. Armed with new research findings, they have launched a concerted effort to alert their children—and the rest of the world—to the dangers of smoking the mind-altering substance.

The vocal "parent power" efforts have been countered by organizations carrying on the campaign begun in the 1960s for more liberal marijuana laws. They charge that an overly emotional anti-pot atmosphere—reminiscent of the 1930s mood that led to stringent legal sanctions against the drug—may again be building.

"Marijuana seems to be shaping up as a battleground with the new right," says Larry Schott, national director of the National Organization for the Reform of Marijuana Laws.

The antagonism between proponents and opponents is illustrated by a recent Capitol Hill incident: after an elderly pediatrician on NORML's board testified in favor of loosening criminal laws for personal possession of pot, she was heckled in a Senate hallway by a group of teenage girls vehemently opposed to its use.

Today, as always, it is difficult to separate political and philosophical concerns about one of the country's most commonly used recreational drugs from the "facts"—such as they are—about its health effects.

Marijuana researchers themselves have joined the debate, lining up on either side of the issue and interpreting the preliminary scientific findings in entirely different ways. One researcher prominently identified on the "pro-marijuana side" argues that the deck is now "stacked" with "anti-marijuana researchers who went into the field to prove their strong feelings were correct."

The "laboratory" scientists also tend to be more negative about marijuana and its health effects than the people-oriented social scientists in the field, contends Harvard psychiatrist Dr. Norman Zinberg, who sits on the NORML advisory board.

Few experts familiar with the accumulating evidence, however, would give marijuana a clean bill of health today. "At this point we can say clearly it is not a safe and benign drug," says NIDA director Pollin.

Researchers have detected more than 400 chemicals in marijuana, but the focus has been on the chief "psychoactive" or intoxicating ingredient, delta-9-tetrahydrocannabinol, better known as THC.

There is general agreement among scientists that the "high" produced by THC does impair short-term functioning, affecting both memory and intellectual performance.

The evidence also "strongly" suggests that intoxication from social use of marijuana—like alcohol—interferes with driving, flying and other coordination-requiring skills, says Pollin.

While the euphoria induced by marijuana is pleasant to most users, some people react badly to the drug—in 1978, more than 10,000 emergency room visits related to marijuana use were reported. (In comparison, there

were 17,000 for aspirin and 53,000 for alcohol-drug combinations.)

The degree of long-term physical, and psychological, risk marijuana use poses is in greater dispute. Researchers have found that even a single dose of marijuana, in animal tests, may lodge in body tissues for as long as a month.

Concern about cumulative effects of regular marijuana use has concentrated on possible pulmonary damage and the risk of lung cancer, as well as reproductive problems. Studies suggesting both brain damage and an effect on the body's natural defenses—the immune system—are even more controversial. Because they have shown up largely in limited animal studies rather than in people, the human implications are unclear, but unsettling.

Drug's Use and Potency Alarms Medical Experts

It will take years or even decades for scientists to learn with some certainty how marijuana use affects health. But in the meantime, medical experts of all persuasions—even those in the pro-marijuana camp—are alarmed about the changing patterns of pot smoking.

"More young people are using more potent marijuana more regularly at a much earlier age," warns Dr. William Petersen, an official at the National Institute on Drug Abuse.

A decade ago, "typical use was primarily in college students of liberal to radical persuasion who used it on weekends," he says. Today, "kids are going to school stoned in greater numbers," even down to the grammar-school level.

The statistics, based on government-sponsored surveys in 1978 by the University of Michigan Institute for Social Research, suggest that 60 percent of high school seniors had tried marijuana and one in nine smoked it on a daily basis. This was nearly double the rate of 1975. During the same period, however, use of alcohol remained about the same.

An even higher rate of marijuana use among teenagers has been found in surveys in the state of Maryland. And at one Montgomery County elementary school last year, 8 percent of the sixth-graders reportedly admitted to having used the drug.

One optimistic sign that the increase in use by youngsters may be leveling off is a new national survey that indicates a slight decrease in the reported daily use by high school seniors—from 10.7 the previous year to 10.3 percent in 1979. The Michigan researchers also found that more of the students believed that regular marijuana users run a "great risk" to their own health.

Marijuana itself has also been increasing in potency. Five years ago, "street grass" analyzed by University of Mississippi chemists contained only 0.5 percent of the active ingredient, delta-9-tetrahydrocan-nabinol, better known as THC. Today more sophisticated cultivation and higher quality seed stock has produced marijuana with six to ten times as much THC.

The strength has increased so much that street marijuana is frequently more potent than the traditionally stronger hashish. An even stronger derivative, hash oil, which is smoked in small amounts with cigarettes or in small pipes, contains up to 30 percent THC. Along with the changing forms of the drug, the paraphernalia market has grown phenomenally, making drug use "seem chic," says NIDA's Petersen.

Whatever their political persuasion, a clear consensus has merged among medical experts and marijuana groups that use of the drug by anyone under the age of 18 should be discouraged. The government drug abuse agency will emphasize this in its upcoming annual health report. A letter is also being developed to demonstrate the areas of agreement in the controversial marijuana field.

The consensus effort stems from a list drawn up by Dr. Sidney Cohen, a University of California psychiatrist. In addition to concern about young people, he targeted the following groups as being at special risk from marijuana use:

Drivers, who may threaten their own health and that of others.

Patients with, or at high risk of heart disease. Marijuana increases the pulse rate by as much as 50 percent.

Patients with a history of mental problems, particularly schizophrenia, which might be exacerbated by the drug.

Patients with lung problems, who might be especially sensitive to the irritating marijuana smoke.

Pregnant women, because any drug use is discouraged, and marijuana has been linked with some adverse reproductive effects in animals.

Individuals seeking to get pregnant or those with fertility problems should also avoid marijuana, say the experts. And they say breast-feeding mothers should be aware that the drug will probably be transmitted through the milk to their children.

Occasional use of marijuana by healthy adults, however, would appear to have negligible health impact, according to Cohen and several experts surveyed by The Washington Star.

Even Columbia University scientist Gabriel Nahas, author of an anti-marijuana book called "Keep Off the Grass" and one of the most outspoken researchers in the field, admitted that "rare exposure doesn't carry a damaging effect. One cigarette a week is not damaging the health of a mature adult."

The most recent estimates indicate that 43 million Americans have tried marijuana at least once, and roughly 16 million were using the drug at the time of the last survey in 1977.

Because the United States experience with marijuana among significant numbers of people is relatively short, it may be too soon to measure any impact among the moderate to heavy users. "We've known about alcohol for 800 years and nicotine for 80 years. But we've known the most active ingredient in marijuana for less than 15 years, and serious research only began ten years ago," emphasized Dr. William Pollin, the director of NIDA.

Until the jury is in on the long-term health effects, the proponents and opponents will continue to argue about the legal implications of marijuana use.

In the early 1970s many people took the position that the criminal sanctions against personal use of the drug were more hazardous to young people than the drug itself. Rather than out-and-out legalization, "decriminalization"—or removing criminal penalities imposed on personal use of small amounts but not legalizing the drug itself—was proposed.

"My argument isn't that it's good for people to smoke it. What to do about it is another issue. Marijuana is a strong intoxicant so there are bound to be health effects. But there's no evidence anybody has died of marijuana use. People die each year from aspirin, but we're not going to take aspirin off the market," said Dr. Norman Zinberg, a Harvard psychiatrist.

"My fear is that we're going to have another episode of law enforcement that's not going to do kids any good," he added.

"I would not recommend anybody smoke it. There is some risk, but it's minimal. Every activity involves certain risks and hazards," agrees Larry Schott, who leads the main lobbying effort for legal changes under the National Organization for the Reform of Marijuana Laws. "We are promoting a responsible and workable drug policy. The government should be spending more money on research and less on enforcement."

The Carter administration has supported decriminalization. Some officials who originally endorsed this approach, however, are changing their minds. Dr. Robert L. DuPont, a former NIDA director who advocated decriminalization in the early 1970s, is now againts it "because it's the only way to communicate that I'm against pot. It's a flag that symbolizes which side you're on."

The political situation may also be shifting. "The wave of support for decriminalization has peaked and is now passing," argues Dupont. "We're not losing ground, but we're fighting harder to preserve what we have," responds NORML director Schott.

Eleven states have changed their laws to lessen penalties for personal pot use, and a pending congressional bill to overhaul the federal criminal code contains a "decriminalization" provision.

But some states have been reconsidering their liberalized marijuana laws, and there are rumblings that the proposed change will have trouble getting out of Congress. Anti-marijuana groups like the Interstate Movement against Dangerous Drugs are planning to lobby against decriminalization in virtually every Capitol Hill office, carrying one-ounce bags of parsley—which bears a vague resemblance to pot—to illustrate their point.

Sen. Charles Mathias, Jr., R-Md., believes that the growing evidence of health hazards means the proposed legal changes must be reconsidered. He has just decided to oppose the decriminalization provision and lead a Senate fight to maintain stiff penalties.

"Marijuana is one of the most dangerous drugs available today—it's sneaking up on us," he said in an interview. "Decriminalization is becoming more and more unlikely as the scientific evidence piles up."

Scientists Study Drug's Effects on Health

Although marijuana has been smoked for centuries around the world, scientific scrutiny of the drug and its chief chemical component is still in its infancy.

The verdict on health effects will not be in for many years. But new research reviews prepared for the National Institute on Drug Abuse, as well as accumulated studies by various medical experts, point to potentially damaging medical evidence against the drug in the following areas:

Short-Term Effects—In addition to the frequently reported euphoria that provides the recreational attraction of marijuana, the drug produces physical changes, such as an increase in heart and pulse rate, reddening of the eyes, and a slight decrease in body temperature.

"Virtually all" of the studies of performance of persons "high" on marijuana conclude that marijuana interferes with short-term memory and "intellectual performance in ways that impair thinking, reading comprehension, verbal and arithmetic problem solving," according to a NIDA review.

It also "reduces the ability to perform tasks requiring concentration, swift reactions, and coordination," says the federal drug abuse agency.

Such changes may affect driving ability, even after the high wears off. And the hazards may be increased with the combined use of alcohol and marijuana, an increasingly widespread practice.

In a 1979 California study, 16 percent of the people stopped by the police for driving while intoxicated had the marijuana chemical THC in their blood. NIDA is now working with the National Highway Traffic Safety

Administration to develop standards for "driving under the influence of Cannabis."

LUNG EFFECTS

As far back as the 1893 Indian Hemp Commission study, marijuana was linked with bronchitis and lung irritation. Not surprisingly, recent animal and human studies in the laboratory by University of California at Los Angeles researchers and others have found that heavy marijuana use may impair lung functioning.

There is no direct human evidence that marijuana causes lung cancer—it took decades to confirm that among tobacco smokers. But researchers have reported that marijuana smoke contains more cancer-causing agents than tobacco. And the way users smoke marijuana—inhaling deeply and holding in the smoke—as well as the increase in daily use in larger amounts leads many experts to worry that a generation of human "guinea pigs" may fall victim to marijuana-induced lung cancer.

Those who smoke both marijuana and tobacco cigarettes are at even greater risk.

REPRODUCTIVE EFFECTS

"There are a variety of both animal and human studies suggesting that marijuana used daily and in substantial amounts similar to those of a regular heavy tobacco smoker may adversely impair aspects of the reproductive function," warns NIDA director William Pollin.

For men, there is human evidence showing a significant decline in sperm count as well as abnormalities in the sperm among some heavy users of marijuana. Marijuana has also been linked with lowered levels of the male sex hormone testosterone in some studies, although the condition was reversed when heavy use of the drug stopped. (Recent studies have also shown that exposure of male mice to marijuana before birth later affected their reproductive organs and sexual activity).

For women, human research has been more restricted. Animal and early human research suggests possible reductions in fertility among women using the drug at heavy levels.

In one study, 26 women who were using "street" marijuana three times a week or more for at least six months also suffered from three times as many menstrual cycle problems as non-users. Since the women also used alcohol, marijuana was not necessarily the culprit.

However, several animal studies using marijuana or THC—as reported at a 1978 international conference in France—revealed a range of potential problems, including increased death of developing fetuses.

Although there have been some animal studies linking marijuana with birth defects, there is no human evidence that this is so.

And although earlier studies suggested that marijuana may damage chromosomes—the carriers of genetic material in the cell—other studies have been inconclusive or contradictory. "Overall, there continues to be no convincing evidence that marijuana use causes clinically significant chromosome damage," says NIDA.

BRAIN DAMAGE

Nearly a decade ago, British researchers published one of the most alarming health studies ever reported on marijuana use. They suggested that marijuana use among a group of young men had resulted in "atrophy," or shrinking, of their brains. The study was severely criticized on a number of counts and others have since contradicted it.

But concern about potential brain damage persists, particularly the possibility of more subtle effects. Tulane University researcher Robert Heath has recorded changes in electrical activity in the brains of Rhesus monkeys, as well as microscopic changes in brain cells related to marijuana use. The controversial work has not been reproduced by other researchers and the possible human relevance in terms of behavior is still debated.

More general acceptance is given to studies showing psychological impairment from marijuana use, particularly potential damage to personality development in the sensitive teen years. While marijuana has not been shown to be physically addictive, it can be psychologically so.

Clinically, some doctors are now diagnosing chronic users suffering from a condition popularly known as "burn-out," in which the individuals become increasingly unaware of or disinterested in their surroundings. While the condition seems to be reversible, some experts maintain that it may not be completely so.

IMMUNE SYSTEM

Some studies have suggested that marijuana use may weaken the body's natural defense system, but—once again—there is considerable controversy about the human implications in terms of increased disease susceptibility.

In two human studies, the function of white blood cells was affected in some heavy marijuana users on a short-term basis, but other research has not confirmed this. Reductions in immune response have been reported in mice and rat laboratory studies involving THC. NIDA calls the results thus far "far from clear-cut" for humans.

SCIENTISTS STUDY OLD, NEW CLAIMS THAT DRUG HAS MEDICINAL BENEFITS

It was an Irishman, wandering far from home, who taught the West an old medical secret of the exotic East.

For thousands of years, marijuana had been used in India as medicine. But it was not until the late 1830s that W. B. O'Shaughnessy, a physician in the Bengal Medical Service of Britain's East India Company, began publicizing marijuana's medical benefits.

Writing "On the Preparations of the Indian Hemp, or Gunjah," he extolled the drug's virtues in relieving pain, relaxing muscles and controlling the convulsions of diseases such as rabies, cholera, tetanus, and rheumatism.

O'Shaughnesy's missionary zeal inspired others to apply marijuana to a multitude of ailments—anxiety, asthma, insomnia, cough, migraine headaches, and menstrual cramps.

Extracts of marijuana became a common over-the-counter remedy in the United States until more easily administered drugs became available and the political uproar over its recreational use discouraged medical experimentation. In 1937, the federal government classified it as an illegal dangerous drug—a status it still holds.

The discovery in the mid-1960s of the chief active ingredient in marijuana, delta-9-tetrahydrocannabinol or THC, opened a new research era for studies of this controversial drug.

While scientists first sought evidence of the hazardous health effects of social use and abuse of marijuana, investigations of new medical applications have also attracted recent attention.

"Therapeutic uses of marijuana should be exploited," said Dr. Sidney Cohen, a well-known Los Angeles researcher who has just completed a review on the subject for the National Institute on Drug Abuse. This review and others provided a technical basis for the 1980 "Marijuana and Health" report released by the government yesterday.

Cohen noted that marijuana may be useful both for its physiological effects on the body and for its mood-altering properties. Areas in which it is now being studied for potential medical value—some of them harking back to 19th century uses—include:

Nausea—The use of marijuana and its chief constituent, THC, in controlling the nausea that often plagues cancer patients undergoing chemotherapy has received the most research interest. Because existing drugs have not been helpful for many people, the nausea and vomiting are sometimes a severe enough side effect for patients to give up treatment unless these ill effects can be controlled.

Pioneering research using THC was began more than five years ago at Boston's Sidney Farber Cancer Institute and has since been confirmed at the National Cancer Institute. Today nearly 30 FDA-approved studies with marijuana and THC are under way.

A recent report by the Massachusetts group concluded that THC was more effective than a commonly used anti-nausea drug. A Mayo Clinic report expressed more reservations, saying it was no better than available drugs and had disturbing side effects for some older cancer patients. A report this week by Duke University researchers concluded that THC "clearly" is an effective agent for controlling nausea, which should become more widely available.

Glaucoma—Marijuana cigarettes and synthetic THC eyedrops have been studied for their potential in treating glaucoma, a condition that often causes blindness.

In 1971, researchers first noted that internal pressure in the eye was reduced by smoking marijuana. More recently, the National Institute on Drug Abuse has developed THC eyedrops, but the long-term effectiveness has not yet been determined. Six research projects are in the works.

Multiple sclerosis—Two studies are testing whether THC can help patients with MS or other disorders by reducing the spasticity or involuntary muscle contractions that accompany them.

Epilepsy—Both animal and human studies have sought to determine whether marijuana can treat epileptic seizures. Some researchers have found that THC actually triggered epileptic seizures in animals. But another marijuana chemical—cannabidiol—seems to reduce or control seizures in some studies and deserves additional human studies, Cohen said.

Anorexia nervosa—There has been interest in using the reputed appetite-inducing characteristic of marijuana to treat young women afflicted with anorexia nervosa, a potentially life-threatening condition in which a victim may literally starve herself to death. One recent study appeared to show no effect, perhaps because the origin of the illness seems to be as much psychological as physical.

Asthma—Initial research enthusiasm for using marijuana to dilate the air passageways of asthma patients was dampened by findings that it also irritates the lungs and may pose a longer-term threat of lung cancer.

There is still some interest, however, in developing aerosol sprays that might have fewer side effects as well as in understanding the mechanism for the beneficial effects.

Antibiotic action—Czechoslovakian researchers have found some indications that externally applied marijuana preparations could control bacterial infections. If further studies corroborate this, such ointments might be a useful addition to available drugs, Cohen said.

Folk medicine—Mixed results have been reported in attempts to corroborate folk medicine claims that marijuana controls pain, relieves depression or anxiety and induces sleep.

There is evidence that marijuana is useful, but in no way a wonder drug," said Dr. Norman Zinberg, a Harvard University psychiatrist involved in the research with cancer patients.

He and others noted that it is hard to determine proper dosages, that the available preparations are often uneven in effects, and that the intoxicating "high" that makes

marijuana attractive as a recreational drug may be an unwanted side effect for many patients.

An unwanted side effect for many scientists attempting such research has been the miles of bureaucratic red tape involving Marijuana's status as a tightly controlled illegal drug—in the same category as heroin and LSD—means dealing with three government agencies rather than one.

The National Institute on Drug Abuse is the drug supplier, growing its own "grass" and manufacturing the chemical THC for research purposes. The Food and Drug Administration is responsible for approving the projects and the Drug Enforcement Administration must also grant permission.

THE PRIVATE SECTOR

But despite the obstacles, the studies have finally reached the point where the government is attempting to attract private industry to market the marijuana chemical THC for nausea treatment.

At a recent FDA meeting, 12 companies attended and several have since indicated privately that they are interested in following up on the drug. "It looks encouraging," said Dr. Robert Willette, chief of NIDA's research technology branch. "The response has been better than we expected it's a high-risk investment with relatively little payoff."

He estimated that if a company decides to submit a new drug application to the government, "the most optimistic picture would be one year to get on the market. It will probably take longer than that."

But at present, the illegal status and limited availability to only those in approved studies has reportedly led many patients to seek underground supplies of marijuana for controlling nausea or treating glaucoma.

FREEDOM OF CHOICE

A wave of "freedom of choice" enthusiasm around the country—similar to that for the alleged cancer drug laetrile—has sought to change all that. Nineteen state legislatures have passed laws making marijuana more available for therapy.

Most of the laws set up state-sponsored research programs that allow patients access to supervised studies. But in about half of the cases, the new state laws contain provisions that are contrary to federal drug laws.

In general, most of the medical interest has focused on the chemical THC rather than on marijuana, which contains more than 400 different ingredients. While it would be possible for THC to meet drug marketing requirements of safety and effectiveness, it would be virtually impossible for marijuana—and all of its ingredients—to do so.

The distinction is a crucial one, particularly for groups such as the National Organization for the Reform of Marijuana Laws. While NORML has championed the cause of reducing criminal penalties for recreational use of marijuana, it has also embraced the medical potential of the drug.

SEEK TO RECLASSIFY DRUG

In 1972, the group petitioned the government to reclassify marijuana from Schedule I, the classification that calls for the most stringent controls and penalties, to a less restrictive category that would allow doctors to prescribe the drug. But last year, the Department of Health, Education and Welfare recommended that there be no change, and the case is still pending in the courts.

Some of NORML's experts maintain that marijuana as a whole may be more effective than one of its parts. "I'm not sure THC capsules are as effective as marijuana cigarettes," said Alice O'Leary, head of the group's medical reclassification project.

There is some preliminary evidence to support this claim. The research program being supported by the state of New Mexico for cancer patients has found preliminary evidence that orally administered THC tablets may not be as helpful as smoking marijuana for the control of nausea.

Robert Randall, a young man from Washington with glaucoma who has worked closely with NORML in publicizing the medical benefits of marijuana, has steadfastly maintained that it is the cigarettes, not the THC, that are helpful in his case. He and other glaucoma patients get their supplies from the government.

"The federal government has tunnel vision focused on THC," O'Leary said. "It would take changes in the law for marijuana to be made available by prescription, but I wouldn't discount that possibility."

MAY BE MISLEADING

But one government official said that "pro-marijuana groups are using the therapeutic potential as a vehicle to destigmatize the drug" and open the way for more liberal marijuana laws in general.

Other critics have charged that undue attention to the beneficial aspects of marijuana may even mislead those who experiment with it recreationally into thinking that the drug is harmless, if not healthful.

"I'm afraid young kids will think marijuana is good for you," complained Joyce Nalepka, a Maryland mother active in the Interstate Movement Against Dangerous Drugs. "By making it look like medicine, people will think it's medicine," agreed one health expert who asked not to be identified.

Even if marijuana should become part of the medical profession's therapeutic arsenal, it may be perceived as a double-edged sword. While it could help treat selected groups of patients, many parents and drug abuse experts worry that marijuana's widespread use among the young will also contribute toward more medical problems in the future.●

DEFENSE AUTHORIZATIONS, 1981—S. 2294

AMENDMENT NO. 1691

(Ordered to be printed and referred to the Committee on Armed Services.)

Mr. THURMOND submitted an amendment intended to be proposed by him to S. 2294, a bill to authorize appropriations for fiscal year 1981, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, and for other purposes.

Mr. THURMOND. Mr. President, the Persian Gulf crisis has underscored the requirement which this Nation has to improve its declining naval power. In the face of continuing communist inspired aggression and crises around the world, the United States must have an adequate supply of ships it can deploy for a variety of missions.

Even though this administration claims we must maintain a 550-ship Navy, President Carter's ship requests during his first term have not been supportive of this size Navy. In continuation of this weak policy he has asked for less money for naval shipbuilding in fiscal year 1981 than Congress authorized in fiscal 1980, $6.1 billion versus $6.6 billion. The President also recommends the construction of fewer fighting ships than authorized last year, 8 versus 12.

To help overcome these deficiencies, I believe the reactivation of the Battleship *New Jersey*, a floating asset which already exists, is a correct step for our Navy to take to improve its force structure and respond to emergencies. This approach offers considerable savings both in the time required to place a ship in service and in dollars saved when compared with the construction cost of a new ship.

BATTLESHIP "NEW JERSEY"

Although commissioned in 1943, this ship has seen only approximately 6 years of sea duty. There are at least 25 years of life yet to be obtained. The tonnage of the *New Jersey* is 58,000 tons, speed 32 knots, length 880 feet, and the ship has excellent survivability due to highly compartmentalized 16-inch steel belt armor and heavily armored steel decking. The *New Jersey* has the highest nonnuclear survivability figure of merit of any United States ship currently in the inventory.

The *New Jersey* is needed in the active fleet, not only to maintain a presence, but to perform naval missions in the Indian Ocean, the Caribbean, the Pacific, and elsewhere. This battleship has nine 16-inch and twenty-five 5-inch guns. My personal investigation reveals there are more than adequate supplies of ammunition in storage for this ship. This ship also has ample space for new cruise missiles. Installation of these weapons will make it a powerful fighting ship capable of performing many vital naval missions, including projection of power at sea and ashore as well as protection of our vital sealanes.

The *New Jersey* recently saw duty for the third time in the Vietnam war. Her 16-inch guns have a range of about 25 miles which can be extended if needed by the use of rocket-assisted guided projectiles. With appropriate modifications, the *New Jersey* could easily serve as a flagship for the rapid deployment force. As currently configured, her 16-inch guns can put tons of warhead explosives on a target in less than 3 hours. This devastating power can be delivered in all kinds of weather in support of marines ashore or in sinking any ship afloat in short order. It can also operate as a tanker and refuel other ships at sea.

Mr. President, the reactivation of the *New Jersey* will significantly aid us in our efforts to maintain our slim edge in naval forces. Without refueling, the *New Jersey* can steam about three times as far as a large deck, conventionally powered aircraft carrier. Because of this great capability, the *New Jersey* can serve double duty as a tanker in remote areas such as the Indian Ocean. She will also carry a significantly smaller crew, have one-third the 5-year carrier overhaul cost, and will be one of the fastest naval vessels on the sea. Most important, the *New*

Jersey will have the capability for the surgical destruction of high priority targets at great ranges. As an example, the *New Jersey*, situated off the coast of Los Angeles, has the capability utilizing cruise missiles to destroy a bridge or airfield in Denver, Colo. Thus, the highly survivable *New Jersey* will have the capability to engage targets which otherwise would entail high risks for U.S. air or ground forces. This capability can be obtained at a relative low cost when compared to the expense of a new ship.

Admiral Hayward, Chief of Naval Operations, testified that a completely modified *New Jersey* could be put in service with cruise missiles and other weapons for about $250 million (fiscal year 1980), whereas a new ship of equal capability would cost $1.4 billion.

The Soviet Union is also taking steps in this direction. They have under construction a 35,000-ton cruiser bristling with armament. As the Senate is well aware, the Soviet Union has been rapidly building a large naval force which each year becomes more threatening to the sealanes of communication so essential to our survival both from a military and economic standpoint. In addition, recent problems in the Middle East have forced upon this Nation a requirement for an expanded naval force in the Indian Ocean. This has drawn down our already thin naval strength in other places. The need for more ships on a quick reactivation basis, is a requirement recognized and endorsed by both our military and civilian leadership.

Mr. President, I believe that my colleagues in the Senate will support this important step in revitalizing our naval forces. The Navy views this as a high priority unfunded program and the House of Representatives is also supportive. The time has come, by reactivating the battleship *New Jersey*, to take a positive step in meeting our naval surface ship requirement and protect our interests throughout the world. In an atmosphere of concern about budget escalation, inflation, and the desire for cost effectiveness within our Government, the reactivation of this vital asset should receive the Congress' full endorsement.

Mr. President, Admiral Train, commander of the Atlantic Fleet believes the reactivation of the *New Jersey* is extremely important to the Navy. He has offered to supply the personnel required to man the ship. I ask unanimous consent that Admiral Train's comments be printed in the RECORD.

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

[From the Virginia Pilot, Mar. 18, 1980]

BATTLESHIPS WORTH PRICE, TRAIN SAYS

(By John Stevenson)

ABOARD THE "NASSAU".—The top admiral in the Atlantic would be willing to make sacrifices on other ships in order to free the more than 6,000 sailors needed to man four World War II battleships he hopes to reactivate.

Adm. Harry D. Train II, commander of the Norfolk-based Atlantic Fleet, said during a shipboard interview that he would be "willing to make some sacrifices" if the battleships were returned to service. He did not say precisely what changes he would recommend.

The Navy is already short of ships and personnel, and whatever Train hopes to do would help solve one shortage but might make the other more acute. The main reason he gave for bringing the battleships out of mothballs is to impress countries where the Russian navy has a high visibility.

The size and firepower of battleships make them suited for projecting American naval power in the Indian Ocean than the two carrier groups now there, Train said.

With their sophisticated warplanes, carriers are "overqualified" for showing the flag in the Indian Ocean, and such use is stretching the nation's carrier force too thin, Train added.

Train was interviewed aboard the *Nassau* last week where he is making an unprecedented Caribbean cruise. The cruise is aimed at creating high visibility with the ship and a four-star admiral who generally works at his Norfolk headquarters.

During the interview, Train predicted that two aging cruisers, the *Chicago* and *Albany*, will be kept in commission rather than retired, as now planned. He also said the Norfolk-based nuclear carrier *Nimitz* and cruisers *Texas* and *California* will remain in the Indian Ocean longer than scheduled.

Keeping the cruisers in service would be part of the Navy-strengthening plan that has led to the battleship-reactivation concept sought by Train, other Navy officials, and some congressmen.

While there has been much talk about bringing back the four battleships, Train was the first high ranking Navy officer to suggest that the cruisers be kept in service.

The admiral said he is pushing to keep the cruisers and "I expect it to happen. But it's not my decision. I just expect the wisdom of the American people to prevail."

If a decision to keep the *Chicago* and *Albany* is made soon enough. Train said, it is possible that the *Albany* could remain in its present position as 6th Fleet flagship in the Mediterranean.

Without such a decision, however, the *Albany* soon would be replaced as flagship by the Norfolk-based destroyer tender *Puget Sound*. These plans have drawn fire from some who think that the virtually unarmed *Puget Sound* is not impressive enough to be a flagship.

Still unanswered is how the Navy would find manpower for four reactivated battleships and for retaining the *Chicago* and *Albany*. Each battleship would need as many as 1,800 crewmen, while the two cruisers carry about 1,000 people each.

Because of recruiting and personnel retention problems, the Navy is having trouble crewing much smaller vessels than battleships and cruisers. Some ships in the front-line Mediterranean 6th Fleet were reporting "significant degradation of readiness" late last year because of this problem.

Asked about the recent diversion of the Norfolk-based nuclear carrier *Nimitz* and two Norfolk-based nuclear cruisers to the Indian Ocean, Train said: "They may have to stay there awhile."

The ships were to have been home late this month from what started out as a six-month Mediterranean tour. But with their diversion to the Indian Ocean, a 24,000-mile investment has been made, he said.

"It would be irresponsible," Train said, to "put them in and pull them out." However, he would not say exactly how late the *Nimitz* and cruisers *Texas* and *California* will be in returning to Norfolk. Such information is classified.

About 20 U.S. Navy ships are now plying the Indian Ocean in response to the crisis in Iran. The Soviet invasion of Afghanistan is also reportedly responsible for keeping the ships where they are.

Train applauded this large warship presence, saying: "I can't foresee what event might occur that would alter our reason for being in the Indian Ocean. It has put a bit of a squeeze on the freedom of action of the Soviet Union."

However, the new Indian Ocean commitment has stretched the 400-ship Navy thinner than at any time since before World War II. The chief of naval operations, Adm. Thomas B. Hayward, has complained to Congress that he is being asked to meet a three-ocean requirement with a "1½-ocean" fleet.

The battleships that the Navy hopes will help solve the problem are the *New Jersey*, *Iowa*, *Wisconsin*, and *Missouri*. It was on the *Missouri* that Japan signed the documents of surrender at the end of World War II.

Planners estimate that it would cost about $500 million each to recommission the *Iowa*, *Wisconsin*, and *Missouri*, but only $200 million for the *New Jersey*. That ship would require less money because it was reactivated for Vietnam and doesn't need as much modernization as the others.

The ships each displace 45,000 tons and have weapons that include nine 16-inch guns. Train said the recommissioning cost for each battlewagon would be about the same as construction costs for a Spruance-class destroyer, but that the battleships would be "considerably more effective in displaying power."

The fiscal 1981 defense budget contains no money for recommissioning the four battleships, but Train predicted that supplemental funding will be provided.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a hearing to review the current status of the strategic petroleum reserve. The hearing will address the question whether or not the administration will propose the resumption of filling the strategic petroleum reserve. This hearing had been scheduled earlier this year, but had to be canceled.

The hearing will be held on Friday, April 18, at 10 a.m., in room 3110, Dirksen Senate Office Building.

Questions regarding this hearing should be directed to George Dowd of the subcommittee staff at 224–2564.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing on small business capital formation retention and recovery.

The hearing will begin at 10:30 a.m. on Monday, April 7, 1980, in the Federal Building, Pattie and Pine Streets, Missoula, Mont.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce hearings that will be held by the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs. The subcommittee will conduct hearings on H.R. 79, the Postal Service Act of 1979, and H.R. 826, which places the Postal Service under the provisions of

the Occupational Safety and Health Act of 1970.

These hearings will start on April 15, in 1202 Dirksen Senate Office Building at 10 a.m.; and continue on April 16, in 1202 Dirksen at 10 a.m.; on April 17, at 10 a.m. in room 318, Russell Senate Office Building, and on April 21, at 10 a.m. in room 3302, Dirksen Senate Office Building. General Bolger will present his annual report to the Congress before the full Governmental Affairs Committee.

If you have any questions regarding these hearings, please contact Anne Boni of the subcommittee staff at 224-2627.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will continue its hearings on S. 1860, the Small Business Innovation Act of 1979.

The hearing will begin at 9:30 a.m., in room 424 of the RSOB, on April 15, 1980.●

ADDITIONAL STATEMENTS

REMEMBER THAT INFLATION SURTAX

● Mr. DOLE. Mr. President, by the time the Senate reconvenes after the recess, most Americans will have completed and mailed their tax returns for 1979. As they do so, they will become acutely aware of what is wrong with the personal income tax structure.

I am talking about the inflation bonus to the Government in increased tax revenues, caused by the interaction of inflation with the progressive income tax. Unfortunately, in recent months this phenomenon has come to be taken for granted. Both defenders and critics of the administration's successive budget proposals for fiscal 1981 point out that the deficit is reduced, in significant part, by the effects of inflation moving people into higher tax brackets.

Now the administration has proposed additional tax increases, in the form of withholding tax on interest and dividends, imposing an oil import fee that would function as a gasoline tax, and a few other items. We in Congress will be taking a look at those proposals. But neither we nor the taxpayer should forget that the biggest tax increase is automatic, and not the result of legislative action—it is the result of inaction. Because of the progressive rate structure of the income tax, peoples' taxes rise faster than income—even when income gains are illusory because of inflation. This, in turn, destroys the progressivity of the tax as low and moderate income taxpayers are lifted into higher rate brackets.

Mr. President, no one wants to bust the budget this year but we must do our level best to cut spending enough to facilitate tax relief. A number of proposals have been put forth, but we must include steps toward indexing the tax code to inflation. Taxpayers who are now preparing their returns will understand why. Taxes for 1979 were increased by about $11.5 billion because of inflation alone—an average of about $115 per taxpayer. Of course, the impact differs for various income groups. Taxpayers ought to be aware of where this additional $115 in tax burden came from as they file their returns.

In 1978 Congress enacted a tax cut effective for 1979. The amount for individual income tax relief was $12.4 billion. The $11.5 billion taxflation figure for 1979 virtually wiped out that reduction. How can we use taxes for fiscal policy, if the steps we take are negated before they can have an effect? The answer—whether it is adopted this year or next—is the Tax Equalization Act, S. 12, which the Senator from Kansas introduced last year. This bill would adjust the tax brackets, zero bracket amount, and personal exemption according to the inflation rate. Then tax rates will be stable relative to real income. Congress will have to vote for tax increases if it deems them necessary.

Mr. President, with a record peacetime tax burden—tax increases totalling $100 billion proposed for 1981, we have to find a way to cut the Government's share of our wealth enough to facilitate an end to the inflation surtax on income. This issue is important this year as never before, and I will continue to address the problem until we can agree to a solution.●

THE COURAGE OF ANDREI SAKHAROV

● Mr. CRANSTON. Mr. President, Soviet physicist Andrei Sakharov is currently enduring internal exile within the "closed" Soviet city of Gorkiy. The brutal mistreatment of the distinguished Dr. Sakharov has shocked the world, but has not silenced this courageous voice, which still speaks in defense of human rights and individual freedoms. I am hopeful that world opinion may help in convincing the Soviet authorities that such treatment of a distinguished international scientist is unacceptable and that if the Soviet society cannot tolerate a free and open mind such as Dr. Sakharov's, they should allow him to emigrate to a nation where his insights and advocacy of human rights is appreciated.

Mr. President, one of the leading scientific minds in the United States, Dr. Sidney Drell, deputy director of the Stanford Linear Accelerator Center, recently spoke from the heart about Dr. Sakharov in a meeting at Stanford University.

I ask that the full text of Dr. Drell's eloquent and forceful address be printed in the RECORD.

The remarks follow:

REMARKS FOR ANDREI SAKHAROV

I am privileged to know Sakharov and his equally brave wife, Yelena Bonner, as close friends. They are two of the most courageous people in our world today. I am outraged at the despicable treatment inflicted on Sakharov by Soviet authorities who have banished him in internal exile to the closed city of Gorkiy, some 250 miles east of Moscow; who have stripped him of his honors; who have warned him not to talk with foreigners or to associate with criminal elements, meaning dissidents; who have threatened his confinement to psychiatric hospitals if he does not silence his voice; and who have harassed and physically assaulted him and his wife, using gun-waving rowdies to break into his new Gorkiy residence-in-exile and, very recently, police officers themselves.

Not only I am outraged by this deplorable and appalling treatment. In a totally unparalleled outpouring of concern many, many thousands of colleagues from most of the major scientific research centers of the world, from presidents of prestigious national scientific academies and major universities (including Dr. Lyman of Stanford) have expressed their outrage and dismay. I know of no parallel to this spontaneous expression of support for Andrei Sakharov, whom I look upon as truly a living saint. An eloquent and brave spokesman for human rights, an indomitable and unflinching figure of courage and reason, and a stirring example of the freedom and dignity of the human spirit, Andrei Sakharov has become the conscience of mankind.

Tonight I want to sketch briefly the person, the principles, the ideals and the extraordinary courage of this historical figure. Andrei and Yelena should know, their many fellow dissidents and political prisoners around the world should know, and their jailers and oppressers must know that we care deeply; that we are willing to toil for their freedom; and that we do commit ourselves to the principles of human dignity and freedom to which Andrei Sakharov, Yelena Bonner, and their even less fortunate colleagues in the gulags of our imperfect world have dedicated their lives.

Andrei Sakharov is a brilliant theoretical physicist—and it is an issue of great personal concern to him that, adding insult to injury, he is unable to have his latest work in the theory of general relativity, which he himself views as highly significant, published anywhere—the Soviet journals have not yet agreed to publish it and he is not permitted to send it abroad for publication. Known as the father of the Soviet H-bomb and as a brilliant scientist, he was elected at the age of 32 the youngest full member of the U.S.S.R. Academy of Sciences in 1953. By 1957 his concern about radioactive fallout from Soviet nuclear weapons tests in the atmosphere moved him to a politically active role, but he managed to express his conscience within limits acceptable to Soviet authorities for six years until 1963 when he, and most people everywhere, welcomed the signing of the limited atmospheric test ban treaty that confined nuclear testing to underground shots that created none of the dangerous fall-out.

For four more years Sakharov strove against censorship—finally breaking into print in 1967 with the circulation of his remarkable essay on "Progress, Coexistence, and Intellectual Freedom" published in the West in 1968. The two basic theses which Sakharov develops in this essay are (1) the division mankind threatens it with destruction and (2) intellectual freedom is essential to human society. His arguments remain as valid and compelling today as they were when they first appeared thirteen years ago. This essay publicly marked Sakharov's conversion from a scientist in search of nature's principles for the structure of matter to a moral leader in search of ethical principles for a humanity striving for peace, for progress, and for freedom for all.

Sakharov was a founder of the Human Rights Commission in Moscow in 1970, and in 1973 was finally moved to make worldwide public appeals for support for dissidents forcibly confined to psychiatric hospitals. This led to his first public warning by Soviet officials and to his public chastisement by some of his own academic colleagues for activities "hostile to the Soviet Union." The

petty harassment which was initiated at this point by Soviet authorities began taking its toll physically on Sakharov, plagued by serious heart problems, and on his wife, Yelena, afflicted with serious problems with her eyes.

It was shortly after this that I first met Andrei when I attended a small working physics seminar organized by the Soviet Academy of Sciences in the summer of 1974 in Moscow. I found him a gentle colleague with whom a warm bond of friendship was formed out of our shared scientific interests as well as our concerns about the impact of science on the human condition; particularly in the field of nuclear weapons and their control, which is an area of deep and active concern to us both. Sakharov invited me to his small, crowded, but humanly warm Moscow apartment for supper with several family members. Yelena came briefly via taxi from her hospital bed where she was undergoing treatment for her severe glaucoma that partially blinds her—and threatens worse.

As it turned out, this was to be his last supper for some time because it marked the start of his first hunger strike which coincided with his delivery of a letter of protest to the heads of both the U.S. and Soviet governments, just then starting summit talks in Moscow. His letter protested the restrictions on emigration for many of the ethnic minorities in the Soviet Union, and this hunger strike was his personal way of focusing the world's conscience and attention on this issue. This hunger strike ended after six days at his physician's insistence when his body, but not his indomitable spirit, could endure the ordeal no longer.

I recall that the police had called on Sakharov in his Moscow apartment an hour or so before I arrived that evening, bearing a crudely written protest from neighbors who complained that his noisy friends and visitors disturbed their peaceful ways. He was mildly cautioned on this score. What makes this worth recalling is the beautiful event that was the cause of this warning. The previous day a bit of music had been brought into the lives of the Sakharovs most unexpectedly. Two lead singers of the visiting La Scala Opera Company had arrived at his door unannounced to show their admiration and affection for him, which they expressed in the best way they could—that is, through song in a private operatic recital. Sakharov was very touched by this gesture.

Sakharov achieved a pinnacle of reverence, respect, and recognition in the fall of 1975 when awarded the Nobel Prize for Peace. As the Nobel citation so fittingly concluded:

"Sakharov's love of truth and strong belief in the inviolability of the human being, his fight against violence and brutality, his courageous defense of the freedom of the spirit, his unselfishness and strong humanitarian convictions have turned him into the spokesman for the conscience of mankind, which the world so sorely needs today."

Characteristically Andrei responded in his prize lecture by calling attention to his countrymen who were prisoners of conscience with whom he wished to share the honor of the Nobel award, and by rededicating himself. Incidentally, this address was delivered by his wife who was then visiting Italy on a short visa for eye surgery since Andrei was refused permission by Soviet authorities to go to Oslo for the ceremonies. Here are several quotes from his response:

"It is unbearable to consider that at the very moment we are gathered together in this hall on this festive occasion hundreds and thousands of prisoners of conscience are suffering from undernourishment as the result of year-long hunger, of an almost total lack of proteins and vitamins in their diet, of a shortage of medicines (there is a ban on the sending of vitamins and medicines to inmates), and of over-exertion. They shiver from cold, damp, and exhaustion in ill-lit dungeons, where they are forced to wage a ceaseless struggle for their human dignity and to maintain their convictions against the 'indoctrination machine,' in fact against the destruction of their souls. The special nature of the concentration-camp system is carefully concealed. The sufferings a handful have undergone because they exposed the terrible conditions provide the best proof of the truth of their allegations and accusations. Our concept of human dignity demands an immediate change in this system for all imprisoned persons, no matter how guilty they may be. But what about the sufferings of the innocent? Worst of all is the hell that that exists in the special psychiatric clinics in Dnepropetrovsk, etc. . . ." and "I would ask you to remember that all prisoners of conscience and all political prisoners in my country share with me the honor of the Nobel Prize."

Calling for a better world order and a more decent society, Sakharov concluded his response by nothing that although other civilizations may:

". . . exist an infinite number of times on the 'preceding' and the 'following' pages of the Book of the Universe, . . . we should not minimize our sacred endeavors in this world, where, like faint glimmers in the dark, we have emerged for a moment from the nothingness of dark unconsciousness into material existence. We must make good the demands of reason and create a life worthy of ourselves and of the goals we only dimly perceive."

Characteristically, while these ceremonies were in progress, Sakharov himself was in Vilna, Lithuania in a vigil at the trial of a close friend and fellow leader of the human rights movement, the brave and then painfully ill biologist, Sergei Kovalov. His public statement on that occasion, as on many occasions since then, emphasized his coldly reasoned concerns about survival in our nuclear armed world. I quote Sakharov's Vilna statement:

"It is absolutely unacceptable—even for a goal as important as respect for human rights—to make conduct in that area a precondition for disarmament negotiations. Disarmament must have first priority."

This concern is repeated in Sakharov's 1975 book "My Country and the World" where we find the quote:

"The unchecked growth of thermonuclear arsenals and the build-up toward confrontation threaten mankind with the death of civilization and physical annihilation. The eliminaton of that threat takes unquestonable priority over all other problems in international relations. This is why disarmament talks, which offer a ray of hope in the dark world of suicidal nuclear madness, are so important."

At the same time, both in words and by his brave example, Sakharov insists that the human rights problems, though not interfering with progress towards nuclear arms reductions, must remain on the basic agenda of our concerns. As he also wrote in his book:

". . . the struggle for greater humanity in places of imprisonment and for human rights in general is not only the moral duty of honest persons throughout the world but constitutes a direct defense of human rights in their own countries."

I was with Andrei Sakharov and his courageous wife in 1976 at an international scientific congress in our common field of physics that convened in Tbilisi in the other Georgia. Once again in conversation, as we walked or lunched and talked together, I was moved by the devotion and personal commitment to basic human rights of this modern-day saint. Occasionally he entered with considerable enthusiasm and pleasure into intense discussions of the latest discoveries in particle physics. But inevitably he would return to his concerns about comrades in trouble—to the plight of his close friends and co-founders of the Committee for the Defense of Human Rights; biologist Sergi Kovalev, suffering in prisons; and physicist Andrei Tverdokhlebov, isolated in the Siberian gulag; and to his efforts in behalf of amnesty for them and for persecuted colleagues in other countries as well.

Sakharov's vigil now continues on a more dangerous and precarious level. He did not go to Gorkiy as an alternative to emigrating to the West—I can tell you directly: there was no such option, and rumors to the contrary are not founded. As to accusations of telling state secrets to the West—that is not only false, it is laughable as his work on the Soviet weapons programs is already thirteen years out of date and out of touch with the considerable progress that has been made since then in this area. As to violence, nonsense. He has addressed this issue repeatedly—here is a quote from a statement following the Moscow subway bomb explosion in January 1977 which was viewed by some as a pretext to crack down on dissidents:

"It is especially relevant that the activity of those who are commonly called dissidents, who struggle in these countries for human rights, is based on a total, principled rejection of force or the advocacy of violence. Our main goal, as well as our only weapon, is public discussion, based on accurate information as complete as possible. This consistent and principled position is at the heart of the dissidents' success and moral authority."

He spoke to this point again in November 1977 when he received, along with Anatoly Shcharansky, the Joseph Prize for Human Rights given by the Anti-Defamation League of B'nai B'rith. I had the great personal privilege to accept this honor for him, at his request, in Washington, D.C. at a dinner attended by Vice-President Walter Mondale. My remarks then included a message obtained from Andrei that again insisted, and I quote:

"The vast majority of dissenters in the U.S.S.R. reject force on principle and employ the true free word as their only weapon."

This is the man we honor here tonight. Underneath it all he is a warm human being—and one no longer very robust, as he now stands on the threshold of great peril. Andrei Sakharov and Yelena Bonner will not allow their courageous voices to be silenced so long as their strength remains. Through petitions, wires, and interviews on the Voice of America, colleagues and scientists in the West have called on our Soviet scientific colleagues to rally to his support and to maintain his one remaining protection of membership in the Soviet Academy of Sciences. We have learned that the Soviet Academy will soon meet (on March 4) and that, ominously, Andrei, for the first time, has not received an invitation to attend. Should the Academy then and there strip him of his membership—and that would require acquiescence of two-thirds of the membership in a secret ballot—the remaining damaged, fragile thread of cooperation between our scientific communities will unquestionably break—and that will be surely a tragedy of great proportions after so many years of carefully nurturing a constructive cooperation in our common search for an understanding of the laws of the one Nature and the one Universe we must share peacefully.

My message to you tonight is—let his oppressors know how much Sakharov, his wife, his colleagues, and what they stand for—mean to us. There is precious little we can do in such dismal circumstances—but the human voice, spirit, and word is a mighty force—or why otherwise are there political prisons and censorship in totalitarian societies? We say to Moscow: Don't martyr this saint. If the Soviet system cannot tolerate a

free and active Sakharov and what he stands for, then send him out to us in the West. We'll enthusiastically welcome the most courageous voice of our time.●

REQUIEM FOR SALT II: IT DIED FROM EXPOSURE TO SOVIET GERM AND CHEMICAL WARFARE

● Mr. HUMPHREY. Mr. President, defeat and despair has finally been struck into the hearts of the well-meaning but naive members of the American arms control community. For over 25 years, American arms controllers have assumed that the Soviets have shared with them a sincere interest in real arms control similar to their own.

American arms controllers have assumed that both the United States and the Soviet Union have a common interest in continuing efforts to control the arms race, that the Soviets negotiated arms control agreements in good faith, and that the Soviets could be relied upon to comply in good faith with the agreed provisions of arms control treaties which they had signed.

We imagined Soviet intentions were mirror-images of our own.

Now, however, the whole philosophical underpinning of American arms control theory has been unraveled. There is now strong and easily comprehensible evidence of flagrant Soviet violations of two solemn arms control treaties.

One of these violations is of a protocol banning gas warfare, signed by the Soviets in 1928, and the other is a convention banning biological warfare signed by the Soviets in 1972.

Neither of these treaties has any verification provisions. The Soviets have to be trusted to comply. On-site inspection is the only feasible verification technique, but naturally the Soviets have refused this.

The arms control community must now be terrified by the new evidence of Soviet arms control violations.

It is significant that chemical and biological weapons have always been considered weapons of mass destruction like nuclear weapons. But chemical and biological weapons can be even more universally deadly to human life than nuclear weapons, and possession or employment of these weapons is even more reprehensible.

Mr. President, I request that the following four articles be printed in the RECORD. One is entitled "Soviets Feared Violating Germ Weapon Ban," and is dated September 28, 1975. The second is entitled "Germ Warfare: Is the Kremlin Tearing Up the Rules Book?" It is dated March 21, 1980. Both are by William Beecher, from the Boston Globe. I also request that two additional articles be placed in the RECORD. One is by Rowland Evans and Robert Novak in the Washington Post of April 2, 1980, entitled "Policy or Passing Fancy?" The other is from the Baltimore Sun of March 29, 1980, by Charles Corddry, entitled "U.S. Insists Anthrax Cases Came From Germ Weapons."

The articles follow:

SOVIETS FEARED VIOLATING GERM WEAPON BAN

(By William Beecher)

WASHINGTON.—Administration officials here are in a quandary over what they can do about strong indications that the Soviet Union may be violating the ban on biological weapons by building new facilities for their manufacture and storage.

A treaty prohibiting the development, production and stockpiling of biological weapons went into effect last March and the Soviet Union formally declared in June that it "does not possess any" such weapons.

But sources say there is evidence that within recent months the Soviet Union has been constructing or expanding facilities which appear to be biological arms production plants, having very high incinerator stacks and large cold storage bunkers that could be used for stockpiling the weapons.

The locations, they say, are at Zagorsk, about 50 miles north of Moscow, at Omutninsk, 500 miles northeast and at Sverdlovsk, 900 miles due east of the capital.

Some officials point out, however, that even though photographic evidence appears to show biological installations, there is no way to be absolutely certain without sending inspectors into the facilities.

"If we raise the issue," one official said, "the Russians could insist these are simply new pharmaceutical plants and it would be hard for us to prove otherwise, even though the special characteristics are those associated with biological weapons."

Other officials say that if the issue is not raised and thoroughly aired, it might tempt the Soviets to feel they are free to cheat at will on the biological ban.

An even larger issue, some officials say, is what the evidence suggests about the good faith of the Soviets in living up to any arms control agreement.

Administration sources, however, say that certain analysts regard the evidence as sufficiently ambiguous to call for nothing more than continued close surveillance of the suspected facilities.

The treaty, ratified by the Soviets last Feb. 11, calls for a ban on all biological weapons and toxins and the destruction of those on hand. It was drafted in 1971. Thus far it has been signed by 113 nations, of which 50 have ratified it.

The treaty does not establish a specific monitoring mechanism or procedure, but provides that any party believing another to be in violation may "lodge a complaint" with the UN Security Council. "Such complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council."

And this procedure, too, raises problems.

First, if the United States should complain to the Security Council, it would have to trot out very sensitive reconnaissance photos which would provide intelligence on how good US satellite capabilities are.

Second, raising such an issue formally would tend to undermine the spirit of detente, regarded by any top officials as crucial to negotiations with the Soviets on a second strategic arms limitation treaty, an agreement for mutual troop reductions in Europe and even for Soviet cooperation in moving toward long-term diplomatic solutions to the Arab-Israeli dispute.

Finally, even if a persuasive case were made in the Security Council, the Soviet Union could veto any move for an investigation or a censure.

Given these problems, some officials prefer to raise the issue privately with the Soviets.

"Unless we call them on this issue and demand an explanation," said one senior official, "how much are other prospective agreements worth, anyway?"

Historically, the Soviet Union has taken a leading role in advocating a ban on all biological and chemical weapons. It submitted a draft convention at the United Nations in 1969. For some time thereafter, the United States tried to treat biological and chemical weapons separately, feeling that such things as herbicides and riot-control agents should not be banned from use in combat.

In fact, the United States used herbicides for jungle clearance in the Vietnam war.

In November 1969, President Nixon declared a unilateral renunciation by the United States of the first use of lethal or incapacitating chemical weapons. He also unconditionally renounced all methods of biological warfare. All biological-warfare stockpiles would be destroyed, Mr. Nixon said, and work in the field would be limited to research on methods of defense. A few months later the ban was extended to toxins, as well.

In 1971, at the Disarmament Conference in Geneva, the Soviets agreed to discuss separately chemical and biological weapons and submitted a draft treaty on the latter. Subsequently, the United States and the Soviet Union after considerable negotiation, submitted identical drafts.

Under the terms of the accord, signatory states agree not to develop, produce, stockpile or acquire biological agents or toxins "of types and in quantities that have no justification for prophylactic, protective, or other peaceful use." The same ban covers special weapons and means of delivery.

All such existing weapons are to be destroyed within nine months of the treaty going into effect. Since it didn't go into effect until March 26, the signatories have until Dec. 26 to destroy any biological or toxin weapons they may possess.

The United States has three months in which to destroy or turn over to nonmilitary researchers the small supplies of deadly toxins that the Central Intelligence Agency recently discovered were spared from destruction by middle-level officials acting contrary to instructions.

At the Disarmament Conference in Geneva last June 24, the Soviet delegate, Mr. Roshchin, said: "We attach great value to this international agreement, which bans one of the types of weapons of mass destruction."

He said he was instructed to state that, "At present, the Soviet Union does not possess any bacteriological (biological) agents or toxins, weapons, equipment or means of delivery."

U.S. analysts said such language suggested either that the Soviet Union had destroyed all such stocks, or had never possessed any. The analysts do not know of any destruction program similar to what was undertaken in the United States.

Analysts note, however, that Soviet tanks and armored personnel carriers captured by Israel from Egyptian forces in the 1973 Mideast war were especially sealed and equipped to operate in a chemical, biological or radioactive environment. The Soviets are also known to have conducted extensive defensive training in all three fields, presumably permissible under the treaty.

Given Soviet interests in defense, the question arises whether the three new or expanded plants could have been designed to produce biological agents solely for research purposes. Most analysts say the minute quantities that might be necessary for such purposes can easily be produced in small laboratories and do not require large manufacturing plants.

One concerned senior official said: "The only way to really resolve this matter would be for the Soviet Union to agree to seal these plants and allow some impartial scientists to inspect them. But that's not about to happen."

GERM WARFARE: IS THE KREMLIM TEARING UP THE RULES BOOK?

(By William Beecher)

WASHINGTON.—If reports are true that the Soviet Union is employing poison gas in Afghanistan and is producing germ-warfare agents—both contrary to treaty obligations—the implication is staggering.

It could undermine confidence in the value of a wide sweep of arms control efforts with the Russians.

It would call for a searching reappraisal of the defensive plans for Western Europe.

It would raise deeply troubling questions about whether the Kremlin is becoming contemptuous of the reaction to activities condemned as barbarous by most of the civilized world.

Right off, it should be underscored that the evidence is not unambiguous.

First a trickle and most recently a flood of reports have come from Afghan tribesmen, fleeing to safety in Pakistan, of the use against their villages of a bluish gray gas that caused violent retching and, in some cases, death. During the current Soviet spring offensive to wrest control from the rebels of Kunar Valley, on the Pakistan border, such reports have proliferated.

Might the agent, dispensed from low-flying aircraft, be some form of potent tear gas designed to flush rebel marksmen from their huts where they could be attacked with bombs, bullets and napalm? A person with a severe respiratory problem or weak heart might be killed by such a "nonlethal" agent. Anyway, the reports were sketchy and emotional, coming primarily from illiterate tribesmen.

Analysts noted that while Soviet units throughout Afghanistan have their normal chemical warfare and decontamination units, this could be explained as reflecting a decision to deploy units intact, rather than leave some elements back home.

But one recent report came from a relatively expert witness, a defecting Afghan army colonel who is well schooled on the properties of lethal chemical agents and their effects. He believes he observed a nerve gas attack.

Since the United States now has what it regards as convincing evidence that Vietnamese forces in Laos and Cambodia used Russian-supplied stocks of nerve and mustard gas, some analysts are prepared to believe the Soviets are using poison gas in Afghanistan.

"Why not?" asked one official. "They're using napalm to torch whole villages. They know that if this war drags on it can only bring them grief, with the Moslem world, with the Americans, with everyone. Better to smash resistance as fast as possible. Then there will be only the silence of the grave."

So the United States has decided to try to secure convincing evidence. If it succeeds, it could go before the United Nations to condemn the Soviet Union. Technically, the Russians could use gas in Afghanistan because that country is not a signatory to the 1925 Geneva protocol against gas warfare. But that's a quibble. How would Western Europe, which remembers well the use of gas in World War I, react? And how about the Moslem world, contemplating this kind of gruesome war on its coreligionists?

The other report comes from Russian emigres who have persuasively confirmed rumors of the deaths of hundreds of people in Sverdlovsk following the explosion last spring at what is described as a biological warfare manufacturing plant. American intelligence is convinced that deadly pulmonary anthrax spores were spewed into the atmosphere.

In 1972 the Russians signed a convention banning the development, production, stockpiling or acquisition of lethal germs or toxins, except in small laboratory quantities for medical research. The convention went into effect in 1975, at which time the Soviet Union formally declared it "does not possess any" such weapons.

But at roughly the time of that declaration, U.S. intelligence came up with photographic and other evidence suggesting the Russians might be constructing or expanding bacteriological warfare plants at Zagorsk, Omutninsk and Sverdlovsk. They pointed to the high incinerator stacks and large cold-storage bunkers normally associated with such special production.

If confronted, the Russians might, of course, have insisted the plants were simply for pharmaceutical manufacture. But some officials urged the Administration to approach the Russians and ask for on-site inspection—by a neutral panel of experts, if necessary—lest an absence of challenge let the Soviets thinks they could get away with stockpiling germ weapons.

But the Administration, at that time, felt the evidence was unclear and the danger of bruising détente too great. Now, however, after Afghanistan and after the Sverdlovsk incident, the U.S. is demanding an explanation from the Russians.

POLICY OR PASSING FANCY?

(By Rowland Evans and Robert Novak)

President Carter's disavowal last week of his three-month-old confession that the invasion of Afghanistan changed his view of "ultimate" Soviet goals followed a familiar pattern of reshaping positions to his political needs, a syndrome newly apparent in his treatment of germ warfare charges against Moscow.

In an interview with The Washington Post's Meg Greenfield, Carter denied he had ever admitted changing his own mind about the Soviets' "ultimate goals" as a result of Afghanistan. In fact, on Dec. 31, following the Soviet invasion, Carter declared over ABC television that Afghanistan "made a more dramatic change in my opinion of what the Soviets' ultimate goals are than anything they have done" during his administration.

Thus, Carter's syndrome: what he says for immediate political impact one day, he denies the next under the stress of changed political needs. The result is that U.S. policy becomes hostage to instant political requirements. That has infuriated U.S. allies, confounded U.S. enemies and consigned Carter's real policy to the murky world of make-believe.

The Carter syndrome has been tripping him and his country in foreign policy for three years, but never so consistently as in these days of the Soviet global offensive and the Carter reelection drive.

On Jan. 23, one month after Afghanistan, the president sounded a call to arms in his State of the Union message. It is "imperative," he said, that Congress approve a 1981 defense bill equal to "a 5 percent real growth in authorizations, without any reduction."

When Carter's budget revisions reached the House Armed Services Committee March 31, he called for a 2 percent real growth. In just three months, the president's perception of political reality had caused him to downgrade drastically what he had told Congress was an "imperative" of military preparedness.

The case of alleged Soviet violations of the 1972 treaty banning biological (germ) warfare also has triggered the syndrome. When the allegations about violations were first heard by Carter last spring, he turned a deaf ear. He did so not because the suspicions had been disproved, but because he did not want to harm his cherished strategic arms limitation agreement (SALT II).

Any proof that Moscow has violated the insistent and specific terms of the germ warfare treaty would have made SALT II its first casualty. So, the wraps were on; the explosion in a suspected biological warfare plant in the closed city of Sverdlovsk, nearly 1,000 miles east of Moscow, was given the quick brush.

Afghanistan changed everything. Suddenly, the same circumstances deemed inadmissible for U.S. scrutiny only months earlier were perceived, said a State Department spokesman, as having caused "substantial numbers of fatalities perhaps running into the hundreds."

But will Carter insist tomorrow, as he does today, on uncovering the truth about the alleged Sverdlovsk treaty violation? The State Department says he will. The president's record of making policy according to political needs of the moment strongly argues that he will not.

That is particularly true in this case because a U.S. finding that the Russians blatantly cheated on the unverifiable germ warfare treaty would revolutionize the political climate here against the strategic arms agreement. The top-secret guideline drafted by the National Security Council's Special Coordination Committee last month, informing Carter the administration was "raising this matter" with Moscow, specifically noted "potentially serious implications for the future of arms control."

Those implications center not on germ warfare but on the broader question of nuclear arms control. In the words of one top arms-control expert, a finding of Soviet guilt at Sverdlovsk "would terrify the arms controllers, not just because of the verification problem but because it would prove Soviet intent to cheat at a time many arms controllers claim that there is no such intent."

Some day, perhaps soon, Jimmy Carter may decide to resume all-out pursuit of détente, despite Afghanistan. When that day comes, the Carter syndrome makes change easier: the Sverdlovsk incident, along with the 5 percent increase in the defense budget and many other now-forgotten Carter policies pegged to the passing fancy, will simply be denied and hidden in some musty file.

U.S. INSISTS ANTHRAX CASES CAME FROM GERM WEAPONS

(By Charles W. Corddry)

WASHINGTON.—Administration officials said last night they had compelling evidence that outlawed germ-warfare weapons were involved in the 1979 accident that caused an outbreak of anthrax in Sverdlovsk, an industrial city about 900 miles east of Moscow.

Going well beyond earlier State Department declarations on the highly sensitive issue, the sources also said the Sverdlovsk military installation involved was one of *nine* where the Soviet Union was suspected of producing or storing biological weapons.

Weapons that spread disease are banned under a 1975 Biological Weapons Convention to which the United States and the Soviet Union are parties.

Moscow indignantly denied as fabrications the State Department's first statement, March 18, about reports of an accident with germ weapons. The department rejoined that the accident may have caused "hundreds" of deaths, but gave relatively little of its evidence.

The sources last night, declining to be quoted by name, said the evidence from "emigrants and eyewitnesses" contradicted Moscow's claims that contaminated beef caused the anthrax at Sverdlovsk.

They noted, too, that Moscow now acknowledges there was an anthrax outbreak but has failed to report it, as required, to the World Health Organization. Anthrax is a disease of cattle and sheep that can be transmitted to humans.

The administration sources gave this account of the incident:

One April night in 1979 there was an explosion at the plant in Sverdlovsk. Four days later, military personnel were admitted to a civilian hospital choking, their lips and ears turned blue, running high temperatures.

They died within seven hours.

Within 10 days of the explosion, more than 40 military personnel had died, and the same symptoms were showing up in civilians who had been downwind from the explosion. Doctors were called in from other districts, and all patients except those with anthrax were evacuated from the hospital.

Total deaths are unknown, but more than 200 died in the one hospital. Inoculations were administered throughout the district.

Visiting doctors simply did not believe, the account went on, the district physician's claim that the anthrax resulted from an illegal sale of contaminated beef. Autopsies showed that the victims had pulmonary anthrax, from inhaling the bacilli—not the gastric type, which might be caused by eating bad beef, or the skin type, caused by handling infected meat.

The explanation that contaminated meat was involved is practically impossible to accept, the administration sources said. Cooking destroys bacilli, they said. and hundreds of persons would have had to have eaten raw beef to have caused an outbreak such as that at Sverdlovsk. In addition, the beef would have had to have been extremely sloppily handled.

Moreover, no animal quarantine was ordered, as would have been expected if there was an infected herd, it was remarked.

Mr. HUMPHREY. Mr. President, Soviet employment of chemical and nerve agents in Afghanistan, together with the Soviet pulmonary anthrax accident at the Sverdlovsk Biological Warfare Manufacturing facility in the spring of 1979, reflect flagrant Soviet violations of solemn arms control treaties.

The Soviets should be branded international outlaws for their dangerous treachery. These Soviet violations should finally sound the death knell of 25 years of futile U.S. arms control efforts too often based on wishful thinking about benign Soviet intentions.

The Soviet claim in 1975 never to have possessed biological warfare weapons is now also clearly exposed as another Soviet lie. It is still another example of Soviet arms control deception.

Soviet arms control perfidy has now been exposed on such a grand scale that the whole world can clearly see Soviet duplicity for what it is.

By their treacherous failure to comply with arms control treaties, by their flagrant lies, the Soviets have shown clearly for all the world to see that they view international arms control treaties as meaningless scraps of more paper to be covertly and openly violated anytime it suits their purposes.

Even more important than the new evidence of Soviet arms control violations themselves is a recent confession from the Carter administration's State Department. The week before last, Barrie Dunsmore of ABC News reported that a State Department official admitted that had it not been for the ominous Soviet invasion of Afghanistan, the American people would never have heard about the Soviet pulmonary anthrax accident last year at the Sverdlovsk Biological Warfare Manufacturing plant. Evidence of the Soviet accident was evidently suppressed for almost a year. Indeed, the 1975 Beecher article suggests that evidence of Soviet biological warfare capability was suppressed by Secretary of State Kissinger as well.

This is a remarkable confession by the State Department. The State Department seems to be admitting also that the American people may not yet have been told the true story of Soviet SALT violations, which has likewise been suppressed for years.

I have studied the Soviet compliance record with the SALT I agreements in great detail, and I know that there have been a number of serious Soviet SALT violations which have been condoned and suppressed by the United States. The American people are only now starting to learn of the pattern of U.S. suppression of the history of Soviet SALT violations.

Today, much of the U.S. coverup of reported Soviet bad faith is still concealed by classification restrictions, many of which are unnecessary.

The American people have a right to know their vital national security interests have been deliberately weakened by the SALT-sellers of this and past administrations. Our Nation's future is at stake.

Americans have a right to be outraged by Soviet SALT duplicity and blatant cheating.

I believe our citizens have even more right to the anger which will arise when the public learns how our own official policymakers actually have aided the Soviets by suppressing the history of Soviet SALT violations.●

DOUBTS ABOUT THE MX MISSILE

● Mr. PELL. Mr. President Henry E. Eccles, a retired U.S. Navy rear admiral recently prepared a highly perceptive analysis of the administration's plan to deploy a new generation of land based intercontinental ballistic missiles known as the MX. He concluded that the MX program should be abandoned and that we place greater emphasis on arms control to advance our security. I am inclined to agree with Admiral Eccles. I ask that his paper be printed in the RECORD.

The material follows:

THE MX MISSILE

The United States' plan to deploy 200 mobile thermonuclear missiles, each on a special railroad track with 23 hardened shelters covering about 20,000 square miles in Utah and Nevada, is estimated to cost at least 30 billion dollars.

They are designed not to make a preemptive first strike at the Soviet weapons sites, bases, industry or cities but rather to provide the capability to conduct what is known as controlled counterforce nuclear war against Soviet missile sites.

The purpose is to pose such a large number of possible targets for Soviet missiles that the probability of disarming the United States by a "first strike" counterforce missile attack would be so low that the Soviets would have little incentive to attack.

This program is part of the policy of nuclear deterrence and as such its merits and demerits are usually argued in language and logic so esoteric and so speculative that informed, honest, and patriotic men can reach and plausibly support, opposite conclusions. Each makes a personal, intuitive and unquantifiable evaluation of the inherent critical risks. Therefore, we must cut through the confusion of argument to reach the critical issues. These are:

1. What is the nature of national security?
2. Is counterforce nuclear action a valid concept to insure such security?
3. What is the special nature of command decision and control in nuclear action?

Other issues, such as the cost effectiveness of the system, its effect on inflation and on the environment and the feeling that the system is the child of bureaucratic politics rather than sound strategic analysis, while pertinent, are not decisive.

National security: National security is both the security of the state itself as a sovereign political entity and the security of the institutions of the nation. These institutions grow out of and protect the values of the people of the nation. Thus, National Security should be seen as:

External security: national political sovereignty, territorial integrity, and access to economic resources.

Internal security: economic sufficiency, freedom of enterprise, of expression, of elections, and of the judiciary.

Each category of security and of freedom has its own constituency of special interest which is in continuing competition with other interests for economic and political preference and power. Since resources are always limited, this complex competition makes it impossible to formulate and carry out a no risk national security policy. There is no way in which the risks can be calculated scientifically. Instead, risk evaluation is a matter of intuitive, political, economic, and military judgment.

FUNDAMENTALS OF NUCLEAR ACTION

In conventional war, a major command error can be overcome by extraordinary effort by that command itself or in another area of the field of action.

Nuclear weapons are so swift and so destructive that their use leaves no room for error in the Commander-in-Chief's decision process or the operation of the command and control system.

Time and timing are critical: time available to make the decision, time required to carry out the decision, timing of the various phases of the action, particularly the time required to change targets in response to unanticipated developments.

In nuclear warfare, mistakes are irretrievable. Thus, nuclear weapons command and control is a system of absolutes. Once the weapon is loose, the decision cannot be reversed.

The weak link in this vital system is the sense of moral responsibility for making the critical decision to initiate the use of nuclear weapons. This cannot be resolved by scientific analysis. It is the ultimate expression of one's deepest sense of human values. It must be made in a few critical minutes during which the Commander-in-Chief comes to the shocking recognition that right now, he must decide the life or death of tens of millions of his fellowmen.

Any decision to use a nuclear weapon would require the imposition of authoritative control over most of the normal activities of the nation to prepare for the vast physical destruction and social, economic, and political disruption which certainly would follow even a limited nuclear exchange.

Even the imminent threat of such exchange can create panic. No one can foresee the consequences of the news that the President has gone to a sheltered command post while two hundred million of his people are exposed to extinction.

CONCLUSIONS

The situation today is:

Repeated studies show that even a relatively small nuclear exchange would produce

catastrophic long-range harm as well as immediate damage and casualties.

There is no effective civil defense in the U.S.A. nor is there any evidence that one will be adequately funded and competently managed.

The concept of counterforce nuclear warfare as a means to assure national security is being challenged. Recent events have shown the fallibility of the Presidential decision process. The reliability of the operation of the command and control system under stress is seriously questioned. The cumulative effect of these and of the secondary issues is to diminish rather than enhance both the external and internal elements of national security.

The nature and degree to which the MX system would influence Soviet action is purely conjectural. The present situation with both "strategic" and "theater" weapons is complex and dangerous enough, without spending enormous resources on a project which will further complicate the situation without any assurance of accomplishing its supposed objective.

Therefore, we should abandon the MX missile system program, continue to depend on the present general system of nuclear weaponry to provide deterrence against nuclear attack, make every effort to reduce nuclear weaponry, and accept an acknowledged risk in so doing.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to the latest U.S. Census Bureau approximations, the total population of the United States on April 1, 1980 was 222,566,632. This represents an increase of 155,924 since March 1, 1980. Since last year, our population has grown 2,299,646.

During the past month we have added enough additional people to our country to fill the entire city of Youngstown, Ohio. Over the past year, our population has increased enough to fill the city of New Orleans almost four times.●

METHANE FROM MANURE

● Mr. McGOVERN. Mr. President, faced with ever-mounting financial and market problems, it is heartening to see the ingenuity being displayed by the American farmer in turning toward renewable energy sources. One well-known resource is alcohol fuels, the subject of much interest and legislation by those of us who believe in its positive contribution to our future liquid fuel supplies.

There is, however, another promising source of rural renewable energy coming on to the marketplace, and that is methane Animal manure, when collected and transformed into methane in a digester, can power all of a farm's electricity. Waste heat drawn off a methane generator can fire an alcohol still. And excess methane can be used for cooking and heating a farmhouse. Thus a farm's gas, electric and liquid fuels can all come from its own resources.

The Mason-Dixon Farm, just a few miles from Camp David in Pennsylvania, may well be the showcase for methane generation. As the following article points out, manure from 700 of the farm's dairy cows is used to generate 75 percent of the farm's electricity. I understand that, as with alcohol distillation, there is valuable byproduct left over from the methane generation process which is used for bedding. This material, free of disease-carrying bacteria, cuts down on disease and frees up land normally set aside for growing bedding crops.

If the Mason-Dixon Farm digester's payback period is as good as projected—3–5 years—there should be no doubt that farmers can soon look forward to better financial times as we move toward rural energy self-sufficiency. Mr. President, I submit for the RECORD the following article describing the digester.

The article follows:

[From the St. Louis Post-Dispatch]

DAIRY FARM USES MANURE FOR ENERGY

GETTYSBURG, PA.—Dairy farmer Richard Waybright surveyed the row of cows being mechanically milked in his milk parlor and chuckled.

"What amazes me," he said to no one in particular, "is that these cows are being milked by electricity produced from their own manure."

Waybright, owner with his brother of a $6 million dairy farm seven miles south of here, had reason to be happy. Eight months ago he took a gamble on a bold proposal of a Chicago engineering firm to produce energy out of cow manure.

The result is a methane biogas system which now produces about 75 percent of the Waybright farm's energy, has cut his $30,000 yearly electric bill in half and has the potential in six months to generate not only enough electricity to be self-sufficient but also to sell excess electricity to the local power company.

What is even more unusual about Waybright's project—considered by biogas observers as the first commercial success—is that not a nickel of government money has gone into the operation.

On paper, the system looks simple.

Twice daily water flushes through the 740-foot long barn, collecting approximately 60 pounds of wet manure from each of 700 dairy cows. The manure ferments for 15 days in a large tank 14.5 feet deep. As it ferments, methane gas collects above the tank and is delivered to an electric generator, developed by Stewart and Stevenson of Houston. The generator is first started by diesel fuel.

The waste heat then is mixed with corn grown on the farm to produce pure alcohol, which can be sold for gasohol. The corn remains are then processed into feed for the animals, essentially completing a cycle which has the potential to make the farm self-sufficient.

The key, says agricultural engineer Mark Moser, who helped design the system, is to have a minimum of about 250 dairy cows. have a way to collect the manure and have an engineering firm tailor the process to fit the farm.

Prior to last spring's accident at Three-Mile Island, the Waybright farm had been drawing some of its electricity from that facility, about 40 miles away. The farm, running 2,600 acres of which all but 500 are farmed, grows alfalfa, corn and grass.

The system cost Waybright about $80,000 to install, including construction which was done by his own employees. Because of inflation and other factors, a similar project would cost about $120,000 today.

The methane biogas system, designed by Chicago-based Sheaffer and Roland, Inc., has generated considerable interest in both governmental and industrial circles.

Karl Conrad of the citizens division of the U.S. Department of Energy believes other dairy farms could become energy producers by effectively collecting their cow's manure while Stewart and Stevenson, a $250 million company, is building a new plant in San Marcos, Texas, to specialize in producing generators and motors to convert the biogas into electricity.

Although it's difficult to estimate how adaptable nationally the technology can be, one U.S. Department of Agriculture study cited by the engineering firm predicts that 53 million tons of animal excretion from 23 farm states can produce $767 million of electricity at 5 cents-per-kilowatt hour.

In his case, Waybright believes that at that rate his farm in about six months will produce about $13,000 more electricity than it can use. Although he speculates that it might be a public relations gimmick as much as anything, Metropolitan Edison Co. of Pennsylvania contacted him last month seeking to purchase any excess power.●

PROPOSED ARMS SALES

● Mr. PELL. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH), section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calender days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the 5 notifications I have just received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 24, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–51, concerning the Department of the Army's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $34.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80–51]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Egypt.

(ii) Total estimated value: Major Defense Equipment*, $31.3 million; other, $3.0 million; total, $34.3 million.

(iii) Description of Articles or Services Offered:

Forty-three (43) M88A1 full tracked medium recovery vehicles with ammunition, communications and support equipment, related spare parts, training and other associated services.

(iv) Military department: Army (UBI).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: March 24, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 24, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-52, concerning the Department of the Army's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $82.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-52]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Egypt.

(ii) Total Estimated Value: Major Defense Equipment,* $75.0 million Other, $7.8 million; Total, $82.8 million.

(iii) Description of Articles or Services Offered:

Five hundred fifty (550) M113A2 Full Tracked Armored Carriers including applicable armament, basic loads of ammunition, training, spare parts and ancillary and support equipment.

(iv) Military Department: Army (UBJ).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: March 24, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 27, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-49, concerning the Department of the Navy's proposed Letter of Offer to Denmark for defense articles and services estimated to cost $10.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-49]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Denmark.

(ii) Total Estimated Value: Major Defense Equipment,* $10.1 million; Other .3 million; Total 10.4 million.

(iii) Description of Articles or Services Offered:

Fifteen (15) RGM-84A HARPOON missiles in grade B canisters with related supporting equipment.

(iv) Military Department: Navy (ABQ).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: Navy.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 31 December 1979.

(viii) Date Report Delivered to Congress: March 27, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 26, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-54, concerning the Department of the Air Force's proposed Letter of Offer to Germany for defense articles and services estimated to cost $49.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-54]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Germany.

(ii) Total Estimated Value: Major Defense Equipment* $0.0 million; Other, $49.9 million; Total, $49.9 million.

(iii) Description of Articles or Services Offered:

Replacement/modification of electronic warfare and radar equipment for Brequet "Atlantic" 1150 measuring variant special mission aircraft.

(iv) Military Department: Air Force (YAK).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 31 December 1979.

(viii) Date Report Delivered to Congress: March 26, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 28, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-55, concerning the Department of the Army's proposed Letter of Offer to France for defense articles and services estimated to cost $9.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-55]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: France.

(ii) Total Estimated Value: Major Defense Equipment,* $8.2 million; Other, $1.0 million; Total, $9.2 million.

(iii) Description of Articles or Services Offered: Ten thousand (10,000) rounds of 105mm, M735, armor piercing ammunition.

(iv) Military Department: Army (UWS).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: March 28, 1980.●

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

THE SCHOOL BREAKFAST PROGRAM

● Mr. McGOVERN. Mr. President, the school breakfast program, which began as a pilot program in 1966 and made permanent in 1975, provides breakfasts to over 3 million children in more than 27,000 schools across the Nation. Even though most nutritionists agree that breakfast is the most important meal of the day, for far too many of these children, the breakfast at school is the only breakfast available to them.

Congress acknowledged the importance of the breakfast program at school when it mandated in the 94th Congress an Outreach Program through the Department of Agriculture. Pursuant to this mandate, the Food and Nutrition Service of the Department of Agriculture has undertaken a three-pronged effort to increase participation in the breakfast program. Regional offices of USDA have selected 19 States for special work with State education agencies; the national PTA has received a grant of $98,000 for work in 20 States; and six nonprofit organizations were awarded a total of $230,000 for outreach efforts.

Today I would like to bring to the attention of my colleagues one of these outreach efforts, a 10-minute film entitled "School Starts with Breakfast" produced by the national child nutrition project. The film depicts an actual school breakfast program in operation with testimony from school officials, parents and children. It can serve as an introduction to the program for school administrators, parents, and teachers in communities without school breakfast.

At a time of severe budgetary constraints, thus making Federal outreach efforts more difficult, I am especially encouraged that this excellent film, which was developed by a nutrition advocacy organization, has been purchased and distributed to all State school food service directors free of charge by the Kellogg Co.

I ask that a short description of this film be printed in the RECORD.

The description follows:

SCHOOL STARTS WITH BREAKFAST

A 16mm color documentary film of the Andover-Morris School Breakfast Program, Phillipsburg, New Jersey; Length: 10 minutes.

PARTICIPATION

The School Breakfast Program began in the fall of 1976 at the Andover-Morris School. It then served nearly 80 children a day. Participation has increased to the current 110 children who eat daily from 8 to 8:30 a.m. in the school's gym. Approximately 320 children are enrolled in the school which covers kindergarten through fifth grade and includes a special education class.

PREPARATION

Two cafeteria aides work an hour and a half every morning preparing and serving breakfast, and then cleaning up afterwards. The food is delivered from a central kitchen in the district; fresh milk arrives daily from

a local dairy. The school custodian takes about 10 minutes a day to do the final clean up. The food service director spends about 2 hours per month on administrative duties.

SAMPLE MENU

A variety of cold cereals are served daily. Children usually have a choice between a cold cereal and a hot food item.

Monday: Oatmeal or Cereal; Orange Wedges, Milk.

Tuesday: Pancakes or Cereal; Grape Juice, Milk.

Wednesday: Cream of Wheat or Cereal; Banana, Milk.

Thursday: French Toast or Cereal; Pineapple Juice, Milk.

Friday: Oatmeal or Cereal; Orange Juice, Milk.

PROGRAM COSTS PER DAY—APRIL 1978

The daily cost of serving breakfast varies according to menu changes. It averages $44.00. Children's payments plus the regular per meal rate of reimbursement provide up to $48.07 to cover the costs of food, labor, and administration. If program costs should rise, the higher, especially needy rate of reimbursement—plus the children's payments—would make available up to $54.76 to cover program expenses.

"School Starts With Breakfast" was produced by the National Child Nutrition Project with funds from the Community Services Administration.●

CLOSING OF AMERICAN CONSULATES

● Mr. PELL. Mr. President, on February 19 President Carter ordered the State Department to close five U.S. consular posts in Europe and two in East Asia. This order was given despite the fact that section 108 of the fiscal year 1980–81 State Department authorization act prohibits the closing of these posts.

In signing that act, the President took issue with section 108, claiming that it infringed on his authority to appoint consuls. I regret that interpretation, as I had hoped that the President would see section 108 as an exercise of the Congress power to designate the purpose for which authorized funds are to be spent.

But whatever the constitutional points are in this matter, I believe that it is unwise to dismantle a valuable part of our network of consular posts. They are a part of our front line of diplomacy, which is just as important as our defense establishment in protecting and advancing our interests abroad.

The reaction abroad, both by Americans served by the consulates slated for closure and the host governments, has been highly negative. In this connection, the International Herald Tribune on March 18 published a very important and persuasive article by Jeffrey Robinson on the importance of the consulates to be closed in Europe.

I ask that the article be printed in the RECORD, and I hope very much that it will arouse my colleagues to urge the President to reconsider his decision.

The article follows:

FIVE U.S. CONSULATES IN EUROPE ON PRESIDENT'S SHUT-DOWN LIST

(By Jeffrey Robinson)

NICE, FRANCE (IHT).—Five American consulates in Europe are scheduled to be shut by Sept. 30 despite a congressional provision directing the president not to close them. President Carter issued an order directing the closures last month in Washington.

The consulates are in Salzburg, Austria, Goteborg, Sweden, Bremen, West Germany, Turin, Italy and Nice. Also listed for closure are U.S. consulates in Brisbane, Australia, and Mandalay, Burma, plus two not yet identified. Three which the president apparently considered closing but has decided to keep open are those in Adana, Turkey, Tangiers, Morocco, and Surabaya, Indonesia.

In 1978, President Carter outlined a plan to close some consulates around the world for budgetary reasons, among them, the five in Europe. But protests from American and local communities served by the consulates resulted in Congress' tacking a provision onto the State Department authorization bill to keep the posts open. President Carter signed the bill.

In February, however, the president sent a memo to Secretary of State Cyrus Vance saying that on Vance's recommendation in 1978 he approved the closure of the 13 consulates that the secretary of State had judged to be no longer necessary for the performance of essential functions. He acknowledged that Congress had included a provision in the Department of State Authorization Act for fiscal years 1980 and 1981, that 10 specific consulates of the 13 should not be closed.

"At the time of my approval of the Authorization Act," the president's memo reads, "I noted that because of the president's constitutional power to appoint consuls and the authority implicit in that grant of power to decide where and when a consul should be appointed. I regarded the provision in the Authorization Act to be a recommendation and not a requirement."

The presidential memo says that the advisability of closing the 10 consulates was reconsidered during the preparation of the 1981 budget, but that recent events have led him to conclude that only three of the 10 should remain open. The seven to be closed are, in his words, "clearly marginal", and he wants them shut.

IF ASKED ONLY PRESS RELEASES

The 1978 position of the State Department towards the announced closings was summed up by spokesman Hodding Carter 3d: "Closing posts is, in fact, only one of a number of measures we are obliged to take within the Department of State because of the current constraints on our resources . . . However, the closing of posts should not be interpreted as any lessening of U.S. interests in a particular area . . . Our level of services and representation [will be] maintained at as high a level as possible."

The same response comes, almost verbatim, from the principal officers at the consulates involved.

To avoid the kind of outcry that followed the 1978 announcements, embassies in the various countries concerned have drawn up "if asked only" press releases. The "if asked only" statements say that the president has deemed the closing necessary for budgetary reasons and that the nearest U.S. consulate will pick up the work load, continuing to provide the fullest service to the area.

Operating budgets at each of the five consulates runs from about $175,000 to $275,000 a year, with three of the five in the $225,000–$250,000 range.

"That $1.2 million figure is not necessarily money saved," admits an embassy budget officer. "Closing one consulate adds to the operating costs of another. Travel expenses increase because there is now a wider area to be serviced, and the increased work loads require an increased staff."

The shutdowns come at a time when the number of visa applications in Europe is increasing as Europeans discover the United States. The decline in the value of the dollar makes the U.S. a bargain for most Europeans.

The consulate general in Bremen, which opened in 1796, issued more than 20,000 nonimmigrant visas last year. There are only about 3,000 Americans living in the area, but the Bremen office also handles official matters for about 10,000 servicemen and their dependents living within the consular district.

The five-member staff of the Salzburg consulate does not issue visas, but it does account for nearly a fourth of State Department-generated trade opportunities in Austria, according to a spokesman. Opened after World War II, the Salzburg consulate was closed in 1963, but reopened in 1973.

The Turin consulate, opened in 1877, services an area considered by U.S. experts to be Italy's second most important commercial market. Milan is first. It reports that U.S. exports to the Turin consular district yearly amount to almost $300 million.

At the consulate general in Goteborg, nonimmigrant visas are up 40 percent, and trade opportunities have increased nearly 50 percent over 1978. The nearest consulate to take up the slack if Goteborg closes is in Stockholm, about 6 hours away by car. The Goteborg office was closed once before in 1970 but reopened six years later. The East Germans have a large trade center in the city and the Soviets have recently purchased a parcel of downtown land on which they are erecting two three-story glass buildings—one for a new consulate general, the other as a residence to house the estimated 60 employees who will work there.

The Nice consulate, opened in 1818, represents not only a part of France heavily settled by Americans but also serves as the official American representative to the Principality of Monaco. It is the busiest U.S. post in France outside Paris for special consular services. Commercial activities are reported to be up by almost a third over the previous year. Adds a longtime area resident, "The reason Nice is slated to close is because it's Nice. No one bothered to look at the work load of the consulate or at the fact that on any given day during the season there are some 20,000 Americans in the area. They figure Nice must be a vacation for the people employed here so the ax drops."●

YOUTH UNEMPLOYMENT

● Mr. CRANSTON. Mr. President, on March 13, 1980, the Subcommittee on Employment, Poverty, and Migratory Labor on which I serve on the Committee on Labor and Human Resources, received testimony from Pedro Ruiz Garza, national director of Ser-Jobs for Progress, the largest hispanic community-based employment and training organization in the United States.

Given the difficult decisions that we have to make in the days and months ahead in our attempt to balance the Federal budget, I think it is especially important that we understand all of the many aspects of youth unemployment today and fully grasp its potential significance for the upcoming decade. As we enter the eighties, young men and women between the ages of 16 and 19 have an unemployment rate of over 16 percent—almost three times the national average. The figure for minority youth of the same age is an unbelievable 32 percent.

It is for these reasons that I wanted to share with my colleagues Mr. Garza's testimony. While I certainly do not agree

with his assessment of the administration's concern for the problems of the unemployed, I think his remarks give a good sense of the seriousness of the problem.

Mr. President, I ask that Mr. Garza's remarks be printed in the RECORD.

The testimony follows:

TESTIMONY OF PEDRO RUIZ GARZA

Mr. Chairman and members of the subcommittee: I welcome the opportunity to present testimony before you this morning on the proposed Youth Training and Employment Act and its impact on youth employment, particularly as it relates to hispanic youth.

As national director of the largest hispanic community based employment and training organization in the U.S., I come before you to share our views on the unique employment problems facing hispanic youth and our recommendations for addressing them.

1. Hispanic youth employment problems.—The most devastating problem facing our youth continues to be an economic system that has been neither sensitive nor responsive enough to the employment, training and educational needs of young hispanics.

Public policy makers have shown little or no commitment to increase and improve information and awareness of hispanic youth employment problems. The result has been a minimal resolution of the problem. Moreover, the little data available shows the hispanic youth population falling far behind the general youth population in many economic and educational indicators.

If these trends are not addressed, the problem confronting our youth will be compounded, thereby widening the gap between hispanic youth and the general youth population.

1. Population characteristics. In 1978, the U.S. Census Bureau estimated the Hispanic community conservatively at 12 million persons. Of this number, 42 percent were under 18 years of age as compared with 29 percent for the total U.S. population. The median age of 22.1 years for persons of "Spanish origin" was by far the lowest of any group in the U.S.

2. Labor force participation. Over the past decade Hispanic youth significantly increased in labor force participants, but did not surpass that of the total youth population. Diversity in Hispanic youth (16–24) labor force participation is demonstrated by the 20 percent differential between Mexican-American (72 percent) and Puerto Rican (under 50 percent) youth.

Nonetheless, increased labor force participation did nothing to improve the employment situation. According to a noted labor economist, Dr. Richard Santos of the University of Texas at Austin, persons between the ages of 16 and 24 years comprise only 26 percent of the total Hispanic labor force, but represent nearly 45 percent of all unemployed Hispanics.

3. Unemployment rate. Current statistics indicate that the Hispanic youth unemployment rate is 20 percent. In other words, one out of every five Hispanic youths is unemployed, with the figure for Puerto Rican youth reaching one out of every four without a job. Several factors contribute to the disproportionately high Hispanic youth unemployment rate:

3(A). Educational attainment. More than one out of every three Hispanic youths ages 16–24 years is a high school dropout. Consequently, the median years of school completed by Hispanics is 10.4.

Thus, it becomes apparent that Hispanic youth are not receiving the basic educational skills and related work experience necessary to properly enter and succeed in the labor force. Furthermore, this unfortunate situation is perpetuated by a cycle where poor preparation for entering the labor force leads to unemployment. This results in low incomes.

a. Minimal income does not offer individuals or their children equal opportunities for adequate training to upgrade employment or to successfully compete in the labor force.

b. Language barrier. The fact that a large number of Hispanic youth in the labor force are of limited English-speaking ability further reduces their employability in an English language dominant society. In many cases, it is the employer who will not hire them. In others the youth themselves are discouraged from applying for employment because of their English language deficiency.

c. Discrimination. We also have to acknowledge the fact that employment discrimination exists in the labor force and that Hispanic youth must overcome two handicaps: the fact that they are young, (not accepted in the labor market as adequately trained or experienced) and the fact that they are predominant in a culture other than society's dominant culture.

The employment problems of Hispanic youth are structural and chronic in nature and cannot be solved by short run solutions. The strategy developed to address the youth unemployment issue must become part of the overall national employment and economic policy if it is to succeed.

II. Economic policy for the eighties. The availability of employment opportunities in this decade will be profoundly affected by the economic policies that are developed by the U.S. Congress and the President in the next two years. It is, therefore, distressing to hear President Carter announce that his administration will adopt so-called anti-inflationary measures that will cut back vital services to our communities and sacrifice millions of productive individuals to the ranks of the unemployed. This economic policy not only demonstrates a total lack of concern for the plight of working people, but it also retracts the promises and commitments of the administration and the Congress.

The Full Employment and Balanced Growth Act of 1978 established as national policy the inherent right to employment at fair rates of compensation to all Americans who are able and willing to utilize such opportunities. This is a basic premise that cannot and must not be compromised if we are to maintain and indeed restore confidence in our economic system. We cannot accept delays in accomplishing the mandates of this act, 3 percent adult unemployment and 4 percent overall unemployment by 1983, nor can we abandon the spirit of the law by allowing ourselves to be exploited by politically expedient measures that will eventually stifle our economy.

The effect of this administration's proposed policy of austerity will most deeply impact Hispanics and other minorities, particularly minority youth. Hispanic youth are the least skilled and least experienced segment of the working force; therefore, they are inevitably the last hired and first fired. These policies of austerity will perpetuate this practice. The short range consequences, massive layoffs of productive workers, is a cruel fate to bestow upon a labor force. The long range effects would not only be brutal, but also irreparable. It is painful, yet realistic, to conceive of a large segment of our youth population who will develop into adulthood without ever having held a job.

This disfranchisement of youth from our Nation's work force will reproduce the conditions that preceded the social havoc that rocked our Nation in the sixties, and perpetuate the economic decline that we have experienced since the mid-1970's. I propose to each of you, that we neither desire nor can we afford these consequences.

III. Youth employment policy for the 80's. Our national employment policy must reflect the needs of the Hispanic youth population of this Nation. Because of the diversity of Hispanic groups and the complexity of youth employment problems, it is essential that a variety of strategies be utilized to reduce Hispanic youth unemployment.

The employment strategies that Ser supports are those that have been previously advocated by economist Dr. Richard Santos. Foremost, we propose the investment of financial resources in improving the supply of Hispanic workers through increased education, skills training, and job search information. The available demographic data consistently reveals an Hispanic labor force that has a lower educational attainment level than that of the general working population. We know that one out of every three Hispanic youths 16–24 years of age in our labor market is a high school dropout.

Ser's experience with Hispanic youth has revealed a deficiency in career awareness, career preparation, and skills development on the part of those youths. More needs to be done to bring career awareness and training opportunities to these youths.

These measures will not be sufficient if discrimination against Hispanic workers persists, and there is ample evidence that it remains a serious impediment.

Because of the wide dispersion of Hispanics and the heterogeneous nature of this group, Ser-Jobs for Progress, the Nation's largest employment and training organization is prepared to serve the Hispanic youth community. Ser proposes:

1. The development of multiple program approaches to address the diverse labor market needs of the various Hispanic youth subgroups.

2. The implementation of multi-year funding mechanisms for the comprehensive youth employment and career development act.

3. The deployment of mechanisms to insure the full participation of community-based organizations, neighborhood groups, and other institutions representing the structurally unemployed and unemployable youth of the country in policy, research, and programmatic responsibilities.

4. The implementation of the National Commission on Employment and Unemployment Statistics' recommendation to insure accurate, reliable and timely data on Hispanic youth.

5. The establishment of a National Hispanic Employment Policy Commission to advise the Secretary of Labor on Hispanic youth research.

6. The development of stronger programmatic linkages between the education community and the employment and training system.

These six propositions will begin to address the employment needs of Hispanic youth.

Now, gentlemen let me turn to the President's proposed youth legislation.

V. Recommendations to the proposed youth legislation. President Carter's Youth Act of 1980 proposes to meet the challenges faced by youth unemployment, given the present economic conditions and youth employment needs. SER recognizes the intent of the act and commends the administration on its action response to this critical issue. We find, however, that the act ignores the needs of Hispanic youth. In its attempt to recognize the need to attack the causal factors of youth unemployment—specially among minority disadvantaged in urban areas—we find that the act has some limitations. Recent studies reveal that race and ethnic discrimination continue to be among the strongest forces against youth as they attempt to enter the world of work. In an era when 90 percent of the employment opportunities in the U.S. require a high school diploma: and where the school dropout rate for Hispanic youth is up to 40 percent of

that population: there is enormous need to address these needs in the bill.

Far too much hope is placed on the public educational system to help minority youth get a decent chance at a career. The proposed legislation would in fact, reward the school systems that have treated minority youth with less fairness and allows them to continue to be left behind. As representatives of Hispanic youth, we are strongly opposed to such emphasis on the local educational agencies as the services deliverers of the act.

We find the need to address specific areas in title I of the act as follows:

The youth population being given priority in the act should include persons of limited English-speaking proficiency.

Skills and competencies for youth employment and training programs should include providing English as a second language training for youth lacking language proficiency for employment.

Prime sponsor basic programs should include an equitable allocation of funds for language proficiency training proportionate to the percentage of eligible youth in the population that would be considered persons with limited English speaking ability.

Prime sponsors using equal chance supplemental allocation shall include persons with limited English-speaking ability.

Definitive means be provided to insure that the Secretary and prime sponsors will use nationally affiliated community-based organizations (such as Ser-Jobs for Progress, Inc.) to provide training and technical assistance to service providers.

Prime sponsors shall be required to (1) publish summary reports on annual plans and program performance in daily newspapers with large circulation and to (2) hold public hearings on annual plans prior to submission to the Secretary. Summary reports shall begin with a basic statement of purpose of programs, priority of population segments to be served, historical results of prior years' programs (projected services for (1) age, sex, ethnicity of identifiable subgroups, (2) the measurable unemployment rate and school dropout rates and grades at which dropouts occurred, (3) types of training provided: (4) job placement and job retention rates, (5) incomes earned, (6) statistical design for "comparison groups" to demonstrate contribution to community, (7) program management performance criteria, (8) prime sponsor administrative costs.

The following comments are made in reference to title II of the proposed youth act of 1980:

(1) the use of 1970 data from the census will again negatively impact hispanic youth due to the 17 percent undercount and the demographic growth of that population during the 70's. Projections to account for the increase in hispanic youth population and the most updated data from the census, must be used to adequately serve this segment of the youth population.

(2) The role of community-based organizations is completely absent from the "partnership" with local educational agencies, employment and training officers, and the private sector. Community-based organizations must be added to the act as full partners.

(3) The proposed bill does not sufficiently stipulate the particular differences and needs of hispanics for employment and training and "back-to-school" programs, that are based on bilingual education and culturally relevant curricula. This approach obviously should include the role of parents and of community-based organizations.

In closing, allow me to leave you with these thoughts in mind as we enter the most important decade of our existence as a multi-cultural nation, we ask that you join us in enhancing the opportunities for economic growth and prosperity for America's youth.

Thank you.●

FRANCE DESERVES THANKS

● Mr. RIBICOFF. Mr. President, there has been insecurity and extensive loss of life in the nation of Chad in Central Africa during the past few days. The tragedy of internal fighting has involved hundreds of deaths. We are indebted to France for the safe delivery of about 30 Americans from this danger.

The United States has enjoyed friendly relations with Chad since its independence, and I hope that those good relations and development cooperation will continue when the current difficulties have been sorted out. It is likely that U.S. citizens would have been caught in the upheavals in the capital city of N'Djamena had it not been for French protection. France helped some Americans to fly from N'Djamena to Douala, the capital of Cameroon, and assisted others to find refuge across the Chari River in Cameroon. Our Ambassador, Donald R. Norland, and about 30 Americans were the beneficiaries of this French assistance.

I know that many of my colleagues have shared with me the question as to why France so often appears to make a special effort to distinguish itself from the United States on foreign policy questions. Such distinctions are not worth the careful crafting they receive, for France and the United States have every reason to cooperate and seek common purpose in today's world. In this instance there was an emergency and immediate action was necessary. I like to think that the urgency cut through diplomacy to the real and shared interests the United States has with France. I have not seen coverage of this assistance in the U.S. press, but it deserves to be recorded that France has done us a real service, and 30 Americans safe in the Cameroon are there because of French help.

Mr. President, we are indebted to our old friends of more than 200 years for yet another act of friendship.●

MEDICAL CONSEQUENCES OF NUCLEAR WAR

● Mr. PELL. Mr. President, from time to time we hear statements that nuclear war is "winnable" or that a modern industrial society can "survive" a nuclear attack. Statements such as these concern me greatly because in my judgment they are wrong and undermine the strategy of deterrence on which our security is based.

In this connection, a group of distinguished physicians and natural scientists met in Cambridge, Mass., this past February to review the medical consequences of nuclear weapons and nuclear war. The symposium was jointly sponsored by Harvard and Tufts Medical Schools and physicians for social responsibility.

At that conference, it was demonstrated that medical disaster planning for nuclear war would be futile and that effective civil defense and ecological recovery from a nuclear attack would be essentially impossible. Two Washington physicians, Fredric Solomon and Mary Coleman recently prepared a summary of the findings of the Cambridge conference, which was published in the Washington Star on March 26. I commend it highly to my colleagues and ask that it be printed in the RECORD.

The article follows:

IF THERE WERE A NUCLEAR WAR

A belief that the United States should be able to win an all-out nuclear war with the Soviet Union appears to be one foundation of George Bush's approach to military and foreign policy. He rejects the idea that nuclear war has no winners. According to an interview with the Los Angeles Times, Bush foresees "survivability" of industrial potential, command and control functions and a "percentage of the citizens"—even if "everybody fires everything he has" in a nuclear exchange.

As physicians, we are dismayed and alarmed by these pronouncements of a respected political leader, because current medical knowledge shows Bush's assumptions to be dead wrong.

Last month, a group of distinguished physicians and natural scientists met in Cambridge to review the medical consequences of nuclear weapons and nuclear war. The symposium was cosponsored by the Harvard and Tufts Medical Schools and Physicians for Social Responsibility.

At the conference, renowned authorities documented the futility of medical disaster planning for nuclear war. Effective civil defense and ecological recovery were likewise shown to be essentially impossible.

Consider this information, presented at the symposium:

The single bomb dropped on Hiroshima had the explosive force of about 15 kilotons (15,000 tons of TNT). Nuclear weapons in present-day arsenals range in size from one kiloton to 20 megatons (20 million tons of TNT). Today the United States has over 30,000 nuclear bombs, and the Soviet Union has 20,000.

In an all-out nuclear exchange, all major population and industrial centers would be hit, both in the United States and the Soviet Union. Such an exchange could be complete in one hour. At least 90 per cent of the population of both countries would die as a direct result of the thermonuclear blast and radiation.

The survivors, many of them blind and grievously injured, would have to cope with an environmental and ecological catastrophe. Worldwide fallout would contaminate the earth for thousands of years. Plant and bacterial mutations, the disappearance of most birds and mammals, alterations in the earth's temperature and other atmospheric changes would result in disease, famine and floods on an unprecedented scale.

After an all-out nuclear war, most of the ozone layer in the earth's atmosphere would be destroyed, according to Professor Henry Kendall, a physicist at M.I.T. The sun's rays would then become terrifying and dangerous. Anyone in the world whose uncovered skin is exposed to daylight would risk incapacitating sunburn within 10 minutes and lethal sunburn within an hour. Skin cancer would become rampant. In the long run, only insects can be assured of survival in such a postwar world.

The Cambridge conferees offered conservative estimates of the effects of one 20-megaton thermonuclear bomb upon one large city. Such a bomb would be 1,000 times more powerful than the bomb used in Hiroshima.

If the bomb exploded on ground level on

a clear day it would create a fireball 1½ miles in diameter, with temperatures of 20 million to 30 million degrees Fahrenheit. Every structure and every living thing in the downtown area would be vaporized.

At six miles from the explosion's center (to the D.C. line and some suburbs), all people would be instantly killed by a huge silent heat flash traveling at the speed of light. Glass would melt and buildings would collapse when hit by a supersonic shock wave and winds of 300 miles per hour.

Within a 10-mile radius (to the Beltway) the blast wave, 180 mph winds, and fire would inflict death or injury on almost every human being. At least 50 per cent would die immediately. Even at 20 miles from the explosion, half the population would be either killed or injured by the blast pressure and heat.

Thus a single nuclear device would result in tens of thousands of life-threatening burn injuries. The entire United States has intensive care facilities for fewer than 2,000 such cases.

Many would be killed by random spontaneous fires fueled by oil storage tanks, natural gas lines, gasoline and liquid natural gas tanks. These fires might coalesce into an enormous firestorm, 1,200 square miles in area, fanned by 100–200 mph winds, creating temperatures capable of cooking and asphyxiating those in shelters. Altogether, immediate deaths would come to 2.2 million inhabitants of a metropolitan area like Boston, with a population of 3 million.

Survivors of the fires would be exposed to lethal or sublethal doses of radiation from short-term fallout. Even mild winds of 20 mph would carry fallout as far as 150 miles, where everyone exposed could receive a lethal dose within 24 hours.

This would cause incurable acute radiation sickness, with decreased resistance to infection, and inevitable death within one to two weeks. Sublethal doses would produce stillbirths, fetal malformations, leukemia, and cancer. In subsequent generations, if any survived, genetic damage would appear.

Hospitals would be destroyed, and most medical personnel would be among the dead and injured. There would be millions of corpses. Food, air and water would be contaminated. Survivors would die soon from starvation, dehydration, radiation sickness and infections.

These estimates are for only one bomb. Population centers are known to be targeted with many bombs. Yet some political leaders still talk confidently of "winning" a nuclear war, including one in which—as George Bush puts it—"everyone fires everything he has."●

SMALL BUSINESS VOICES SHOULD BE HEARD—AND WILL

● Mr. EAGLETON. Mr. President, this Nation has an historic commitment to small businesses—a commitment that has spurred many important legislative enactments by past Congresses, principally Democratic Congresses, to preserve and enhance small business ownership. I am pleased to be among the Democratic Senators who, by joining the small business task force and adopting the action agenda released today, are seeking to continue the tradition of congressional concern for small business.

Today, the well-being of small businesses is threatened by the weight of Federal regulations, frequently inequitable tax treatment, increased energy costs and the tendency of many industrial sectors toward concentration. It is necessary to focus systematically on the problems of small business and to commit ourselves to the actions necessary to preserve the small business sector. The Democratic Senate leadership has indicated its desire to do precisely that, by establishing the small business task force and developing the action agenda. The agenda contains items responding to the 15 most important recommendations made at the recent White House conference attended by small business representatives.

The task force agenda is both strong and realistic. Where final action could be accomplished in this legislative session, a strong commitment to do so is made. Where complicated or controversial policy questions are raised by various proposals, the agenda seeks, through prompt scheduling of hearings and committee deliberations to expedite the time frame for resolution of the difficult questions. The agenda significantly increases the chances for adoption of legislative proposals that are important to small business, lending greater visibility and clout to them. At the same time, the agenda avoids the cynical ploy of promising more than we know can realistically be delivered.

I am particularly pleased with two of the task force agenda's points of emphasis: a balanced Federal budget, and meaningful regulatory reform.

The agenda's endorsement of a balanced Federal budget for the coming fiscal year responds directly to the White House Small Business Conference's call for a Federal budget balance. This recommendation received the third largest number of "yes" votes during conference deliberations. The conference's impressive consensus on this issue is definitely on target. I believe that balancing the budget can achieve important beneficial effects, as part of a larger, more comprehensive plan to develop a national energy policy and improve productivity. My belief in the balanced budget led me to cosponsor the resolution which passed the Senate last week and which commits this body to submit a balanced Federal budget in 1981.

Balancing the budget will not be easy. The discipline required of both the Congress and the American people will be very, very tough. Each one of us in the Congress will have to cut back on our favorite programs and possibly incur the wrath of our favorite constituents. Thus, I think it is very important and appropriate that the balanced budget commitment figure prominently in the small business agenda. The more often the balanced budget commitment is repeated and reemphasized, the more often the commitment is linked to other actions that should be taken on behalf of important sectors in our economy, the more likely it is that the commitment will be achieved.

I also believe the inclusion of regulatory reform measures in the agenda is appropriate and, indeed, essential. Regulation figures prominently in the minds—and probably in the nightmares—of small business owners. A constant theme in communications from the small business sector is the extent to which burdensome regulation, staggering redtape, and lengthy paperwork requirements are exerting an increasingly tight stranglehold on small business. The task force agenda responds to these concerns by urging prompt Senate consideration and enactment of regulatory reform and paperwork burden reduction legislation.

As chairman of the Subcommittee on Governmental Efficiency and a member of the Senate Governmental Affairs Committee, I have been working for enactment of comprehensive regulatory reform legislation. Early last year, along with Senator NELSON, I introduced a tough regulatory reform bill. The main features of the Eagleton-Nelson bill are similar to a bill (S. 262) now under active consideration in the Governmental Affairs Committee. Both bills embody a two-pronged approach to regulatory reform. First, new regulations would be promulgated only if they can be justified after a detailed evaluation of all relevant considerations, especially the economic and other adverse consequences of proposed action. Second, agencies would be required to reevaluate regulations and subject them to careful public scrutiny. Agencies would have to abolish all rules that are absolete, unwise or unjustifiable in any respect.

I am pleased that in the course of its deliberations the Governmental Affairs Committee has adopted a series of amendments I offered to toughen the reform provisions of S. 262. One amendment that I believe is particularly important would require that when agencies and the public analyze the consequences of proposed regulations, they give special attention to the rules' impact on small businesses. It is obvious that businesses differ in their ability to absorb the compliance costs imposed by regulations. Small businesses usually bear a relatively greater compliance burden. My amendment would require the designers of regulation to be more sensitive to small business interests, both in determining whether any rule is justified and in choosing among available alternatives which would have different impacts on small business.

This amendment also focuses agency and public attention on the paperwork burdens that would be imposed by a proposed rule and its various alternatives. Frankly, I feel that millions of wasted hours are consumed in filling out forms that no one ever reads or uses, and the mail I receive from small business owners indicates that they do, too. By highlighting the paperwork factor, my amendment can help insure that rules which would impose onerous, needless redtape, or would generate reams of worthless forms can be sent back to the drawing board.

Significantly, the task force agenda makes clear that, while the paperwork problem should be addressed as part of an overall plan to tame regulatory excesses, the problem is also important enough to receive additional, separate consideration. The agenda urges prompt consideration of the various paperwork reduction proposals that are now pending before the Congress.

There are approximately 14 million small business units in this country. The number of men and women involved in

the ownership of small businesses is variously estimated at between 20 and 50 million. Clearly, the welfare of this large and diverse segment of our society must be of concern to the Congress and the Nation.

Yet, small business owners are also important because of the critical role they play in our Nation's economy. At no time is the need to facilitate small business entrepreneurship clearer than in times of economic distress, such as that which we are now experiencing. Unprecedented inflation rates and alarmingly low productivity call for strong measures. It is clear that if this strong action is to succeed, small businesses must be in the forefront of the fight. For it is small business that produces a disproportionate share of the inventions and innovations that help spur productivity in our economy. It is small business, many observers of the energy situation believe, which can best take advantage of promising new energy technologies, which, by their very nature, call out for small scale application and experimentation. It is small business that provides the great majority of the new jobs which help to reduce unemployment.

We can overcome our present economic difficulties, and pave the way to a new prosperity, but only if we realize that small business is essential to a competitive, productive economy. The creation of the small business task force by Senate Democrats and the adoption of the action agenda reflects just such a recognition.●

ARTHUR OKUN

● Mr. KENNEDY. Mr. President, at any time in the life of a nation, the loss of a brilliant and humanitarian thinker is tragic. At a time of national economic crisis, when events disturb the fundamental assumptions, when they call for new courage and insight, the loss of a wise leader like Arthur Okun is felt especially deeply.

Art Okun gave far more to this Nation than the genius which brought him to the top of his profession. His rise to preeminence was a reflection of his extraordinary capacity. From a professorship in economics at Yale, he became the youngest Chairman in the history of the Council of Economic Advisers. And for the past 11 years, from his position as senior fellow at the Brookings Institution, he continued to advise all in Congress and the administration who had the good sense to seek his counsel.

His accolades were the product of his piercing intellect, which led others to describe him as the possessor of a "steel trap mind." His mentor at Yale and the CEA, James Tobin, called him "about the smartest and most brilliant and insightful economist I have known." He was respected as much for insight and imagination as for scholarly rigor and mathematical gifts. He formulated the accepted definition of recession as two consecutive quarters of decline in the gross national product, adjusted for inflation. He also identified a relationship between unemployment and economic growth—a relationship known as Okun's law.

Arthur Okun's place in history is assured by virtue of these accomplishments. But his place in the memory of his colleagues is the product of less tangible attributes. He was a kind, decent, and compassionate man. He was soft spoken and easygoing. His remarkable wit and sense of humor made even the most esoteric economic discussion an occasion not only for education but entertainment. Above all, he was an able adviser, respected not only for his technical brilliance, but for his capacity to translate his specialized knowledge into the language of public policy.

Art had that rarest of capacities in a scholar of specialized expertise—the ability to speak plain English and to communicate clearly. He had a special talent for the word or phrase that could make even the most difficult concept understandable. He once compared the psychology of inflation to a crowd watching a parade: "If everyone stands on their tiptoes, nobody sees any better but everybody is more uncomfortable." On another occasion he wove an elaborate analogy between the state of our economy and "a fat lady munching candy."

> Nobody can promise her a lovely figure overnight if she stops nibbling. Nobody can legitimately warn her that one more piece would do incalculable damage. And foregoing the candy means sacrificing a lot of fun in the short run. But the more she overindulges, the more serious the risks become.

In Arthur Okun, this capacity for plain speaking, the sense of the commonplace, was a bridge to the larger world, the world of individuals touched tangibly by the abstract concepts of economics.

To his profession, Arthur Okun left a legacy of insight and scholarly achievement. To his colleagues, he left a memory of kindness and friendship. But to the people of this Nation—in the midst of our greatest economic crisis since the Depression—he left a larger legacy: A constant plea for social justice as a centerpiece of economic policy. He rejected categorically the fundamental flaw of our current economic policy, that inflation will yield only to the calculated inducement of recession. He said once:

> Beware of anyone who claims to have a sure cure for inflation. I know the prescription: Just create a recession or two, add a few years of sluggish growth, and watch the price curve flatten. That remedy is like cutting off your head to cure a headache.

In today's economy, with inflation and interest rates touching annual rates of 20 percent, all Americans can feel the knife.

In contrast to current policy, Art sought a marriage between economic theory and social values. With his Brookings colleague, George Perry, he began the Brookings Papers on Economic Activity, a journal which explores the relationship between complex economic analysis and current policy issues. In 1975, he delivered a ringing plea for social justice in the Godkin Lectures at Harvard. They were later reprinted under the title "Equality and Efficiency," which has become one of the most important economic works of our time. In its conclusion, Okun quoted John Stuart Mill's assertion that only a Communist could believe that economic misery and deprivation are inherent in a capitalist economy. He wrote:

> Mill was right; they are not inherent and they can be eliminated. Indeed in a democratic capitalism, they must be eliminated. The society that stress equality and mutual respect in the domain of rights must face up to the implications of these principles in the domain of dollars.

In the midst of our economic crisis, this Nation is struggling to face up to those implications. In the struggle, we shall miss the wisdom and compassion of Arthur Okun—the soaring intellect, the personal decency, the clear language, the voice for social justice. He was a teacher of Presidents and Congress. He was taken from us too soon, and at a time when the Nation can ill afford his loss.

Mr. President, Joan and I convey our deepest sympathy to Art's wife Suzanne, and to their sons Lewis, Matthew, and Steven. I ask to have printed in the RECORD the eulogies delivered at the service last week by George Perry, Joseph Pechman, James Tobin, and Hobart Rowan, as well as several tributes which appeared in various publications.

The material follows:

ARTHUR M. OKUN 1928–80

(Remarks of James Tobin at Memorial Service)

For a long time it's been hard for me to talk about Art Okun without bragging, and today it's hard for me to talk about him without crying. Those are usually the feelings of a father for a son, of an older brother for a younger, of a teacher for his prize protege. Those were not, of course, my relationships to Art, even figuratively. From the beginning I learned more than I taught and received as wise counsel as I gave. Yet I may be excused for taking a mentor's pride in Art's achievements and their ever wider recognition, and excused also for my special grief today.

Our close friendship spans nearly three decades, beginning in 1952 when Art and Sue came from New York to New Haven, together with an incomplete Columbia dissertation. Lloyd Reynolds, our Chairman, needed bodies, instructors for sections of introductory economics. No chairman ever had a better day of recruiting. It didn't take long to see through the shyness and insecurity of my new young colleague. We had a lot in common, above all the care and feeding of growing families, each eventually blessed with three boys. Art's priorities were always straight—I haven't known a more devoted, proud, and occasionally anxious husband and father. Then came economics. For the next dozen years, in New Haven and in Washington, Art Okun and I worked together, argued together, taught together, wrote together, laughed together. We shared coffees and lunches, puzzles and solutions, triumphs and defeats.

Art's office—door always open—was the place for colleagues and students to go to get things set straight, confusions dispelled, errors corrected, questions sensibly posed, models repaired. A thinker of natural integrity and inexhaustible curiosity, he pursued matters in depth, unsatisfied until logic was tight and facts fell into place.

When I came to Washington in 1961, with Walter Heller, Kermit Gordon and other explorers of the New Frontier, I had a secret weapon back in New Haven, Art Okun, then not fully appreciated beyond Yale. We called him on the phone, we called him down to Washington; Lyndon Johnson and Kermit Gordon saw to it that Yale never really got him back.

It has been too many years since Art's office was only a few steps from mine. But we certainly kept contact. Only last week I promised myself I would soon phone Art to discuss a problem that was puzzling me. Alas.

We all know Art was a great economist, unerring in his intuition and his perception of the core of a problem or the essence of an argument, that his unique chemistry compounded theory, insight, and hard-won fact into miracles of revelation, that his expositions, even of difficult material, were models of clarity, grace, humor, and style, that in the architecture and practice of economic policy he was simultaneously innovative and prudent, that he was a superb editor, who together with George Perry made Brookings Papers the most admired of economic journals, and not least that both as scholar and as policymaker he was not only a realist but a humanist, unwavering in his conviction that economics and its application could and should improve the welfare of actual human beings, mainly those who start the competitive race far behind.

You know all that. One thing I can add from Art's university career is that he was a marvelous and generous teacher. His theory course for honors undergraduates, his graduate course in what we called in those days aggregative economics, the demanding seminar he as director of our introductory course ran for the graduate students and young instructors who taught its many sections, the individualized reading and research supervisions he undertook on demand—all these were inspirations still gratefully remembered by his students. Patient and considerate in classroom and out, he always could find and foster some kernel of merit in even the most unpromising question or comment. The same quality, I know, has both encouraged and instructed contributors to Brookings Papers, old as well as young.

As an academic, Art steadfastly—and, I always thought, admirably—refused to be drawn into "publish or perish" competition for advancement. He would be himself, follow his own interests in research wherever they led, write when he felt he had something to say. The university, the profession, could value him as he was, being himself, or not. Well, he was valued for himself, and the words poured into print too.

At Yale, in the Economics Department and the Cowles Foundation, as later at the Council of Economic Advisers and Brookings, Art was loyal citizen, constructive critic, active leader, one of those few who hold an institution together and make it work. So he was for the United States.

Art himself was very conscious of the irony, caprice, and inequity of chance and fate in the lives of societies and men. Maybe he could do what I cannot, find some meaningful consolation for the loss of a gentle man who had so much still to give to his family, his friends, his profession, his country, his world.

ARTHUR M. OKUN

(By Joseph A. Pechman)

Eleven years ago Kermit Gordon persuaded Arthur Okun to stop off at Brookings before making a permanent decision about his career. Kermit was confident that Art would find Brookings attractive and, as usual, his intuition was right. Art never left Brookings after he settled in.

During these eleven years, Art was a model of a Brookings staff member. His research was always concerned with important policy issues. He tackled these issues with the most advanced analytical techniques. And he wrote beautifully, so that the results of his research were understood by key opinion leaders and the public at large, as well as by his fellow economists.

Art's major preoccupation as an economist was to devise methods of achieving economic growth with price stability. Early in his career, he observed that the economy grew by 3 percentage points when the unemployment rate was reduced by 1 percentage point. This relationship, now known as Okun's law, held for many years, and now many scholars are trying to explain why it isn't working. In the last two years, Art was grappling with the problem of stagflation, which—he felt—would undermine the U.S. economy unless brought under control. The manuscript he left will be studied by students and policy makers alike for many years to come. Brookings expects to publish it as soon as possible.

Art's ability as a phrase-maker greatly added to his effectiveness as a policy analyst. His speeches and congressional testimony were lucid and often contained artful figures of speech. Among others, he invented the terms:

Discomfort index—the sum of the unemployment rate and the inflation rate;

The leaky bucket—the loss in economic efficiency accompanying programs to help low income people;

The invisible handshake—the implicit contract between employers and workers which is an important element on the wage-price spiral; and, most recently:

Expensive easy money—a condition when credit is plentiful at the same time that interest rates are high.

Art Okun was a compassionate as well as a technical economist. His essay "Equality and Efficiency" (which has sold 65,000 copies and is still going strong), is concerned with the trade-off between the goals of greater equality and economic efficiency. He recognized that the pursuit of too much equality could generate unacceptable efficiency losses, but he also believed that methods can be devised to achieve social betterment without sacrificing too much economic efficiency.

Above all, Art Okun was a superlative human being. He was loved and admired by everybody who worked with him. He spent countless hours helping others in their research and writing. He was always available to the press for explanation and comment on the day's economic events. Many economists with whom he disagreed were his close friends, simply because they knew he was eager to understand and discuss their point of view. Politicians and businessmen of all persuasions sought his advice, which was always forthright and objective. He was rarely able to say "no," so he always overcommitted and overworked.

These qualities are urgently needed in these difficult times. Arthur Okum had all of them and will be sorely missed by his family, his colleagues, his friends, and the nation as a whole.

ARTHUR M. OKUN

(By George L. Perry)

Art Okun was a superb professional economist. As a scholar, he made lasting contributions to knowledge in many areas of macroeconomics and in analyzing the choices that confront a society. He was also the most astute and effective political economist of our time. In working tirelessly for the public good, he was a lesson in character and integrity.

Art was unsurpassed in seeing through complex problems and then making them clear. This made him a great natural teacher. He taught Presidents and Senators and Congressmen a lot when he responded to their requests for advice and comment. He taught his profession a lot through his scholarly work. His death is a great loss, both to the profession and to the country.

But my own sense of loss barely begins there. For the past ten years, Art's office was next to mine. And that made my job the best job in the world. It's terrible to realize that he won't be dropping in any more, and that I can't drop in on him.

Art was the best colleague you could have and he gave the rest of us at Brookings a very special kind of lift. His humor, his wisdom and his real goodness as a person made him wonderful to have around. When he sat down at the lunch table, the conversation got livelier and the discussion richer. While he may have been smarter than the rest of us and may have been right more often than the rest of us, he never made us feel that way. He had a rare gift. You felt brighter and better for having been with him.

It's not nearly enough to say we'll miss him. I loved Art Okun. Many people did. And it hurts so much to know he's gone. But I feel very lucky to have had him as part of my life.

ARTHUR M. OKUN

(By Hobart Rowen)

Art Okun was my friend. And I was a friend of his. Newspapermen, as you know, are not supposed to get too close to their sources—and of course Art, with his great skill as a communicator in terms that the public could understand, was a great, reliable, and engaging source of economic advice and commentary for a host of newsmen in town. Including me. But if objectivity was threatened (I don't think it was), if the rule was broken, I have no regrets.

But I do not come before you in this sad moment for all of us to talk of the professional relationship that Ark Okun and I enjoyed. Nor do I come here to discuss Art as one of the creative economic thinkers of his time. You have heard adequate testament as to that from Jim Tobin, Joe Pechman, and George Perry.

I want to speak of Art Okun as a great human being. I want to talk of his gentility and wit, his warmth and modesty, his self-effacing nature against a background of superb achievement. He had extraordinary talent, but beyond that a grace, simplicity, and humanity.

There wasn't a phony inch to this big man.

In the 19 years I have known him, back to his days on the Economic Council staff in 1961, and more recently at Brookings, I never heard him say a single mean thing about another person—although there were times I thought he had the right to do so.

He had a deep, close, and loving relationship with his wife—expressive and natural and a joy for their friends to behold. He had a consuming devotion to their three sons. I remember a time in 1967 when the White House Correspondents Association had its annual banquet for the President. As you know, that's a mob scene where hundreds of exhibitionists go to see and be seen by the great and the near great. It's fun, of course, and we all from time to time succumb to the lure.

But on that occasion, Art passed up the dinner invitation in order to root for Lewis, who was competing in a spelling bee at a local junior high school.

That wasn't so unusual for the Okuns. In a town that puts a premium on social climbing and cocktail parties, Art and Sue stuck to some of the oldtime virtues. Art got by on sheer ability. At the Council (when the boys were younger, he worked later—) so sometimes Sue would pack dinner in a basket and take herself off with the kids to the Executive Office Building, so they could spend time together. If Art was a workaholic, he was a workaholic with a difference.

There was a lot more to Art Okun than his academic concentration. He was an avid sports fan, and exuded over every win of the Washington Redskins, the Bullets—and in a better and earlier era, the old Washington Senators. He could cite Joe Theismann's passing average as accurately as the "discomfort index" he devised for the economy.

He loved to talk—about anything and everything. And when we disagreed, or when I had an occasional barb for him in print, his most harsh observation might be—in that slightly incredulous tone of his—"Aw, come on!" He wasn't thin-skinned: he had too much class and self-confidence for that.

So I mourn here for a friend—a friend from whom I learned much, much that will stay with me always.

Dear Art, as Juanita Kreps once referred to him, Dear Art, we will miss you sorely.

ARTHUR M. OKUN 1928–80

(By Paul A. Samuelson)

At all times it is a personal tragedy when a top scientist or artist is cut off in the prime of life. In difficult times like these it is a national loss when an experienced and wise policy economist dies.

Arthur Okun was a young and rising star in the Camelot days when President John F. Kennedy was turning a stagnant economy around and initiating a decade of sustained economic growth. Douglas Dillion, Walter Heller, James Tobin and Kermit Gordon deserved the public notice that their successful efforts brought them. But they and the President knew how much our success depended on a younger cadre of able economists—on scholars like Arthur Okun and Robert Solow.

THE PUBLIC INTEREST

Academia's loss was the public's gain when Okun decided not to go back to Yale. For Arthur Okun was the consummate macroeconomist. He even has a law named after him: *Okun's Law*, a rule of thumb relating the unemployment rate and the change in real gross national product, which has stood up remarkably well considering the inexactness of economics. His was the definitive post-mortem on how the Kennedy-Johnson tax cut had worked out (not miraculously, but on the whole, well).

Trained at Columbia by Arthur Burns, he had the electric judgment to combine Keynesian insights with the emerging realities. Okun could estimate econometric regressions with the best of the mathematical virtuosi. But many have that skill.

Economic value comes from scarcity. The rare and precious quality that Okun possessed was *good judgment combined with resourcefulness*. I sit on the board of a nonprofit organization whose bonds are invested by a bank that relied on Okun for macroeconomic advice. His *practical* forecasts were a fountain of good sense. Brokerage houses sought his views because they were worth having.

If you know economists, you will realize how lavish my praise is when I report that I never heard Arthur Okun say a foolish thing. He was often wrong, as all economists turn out to be. But his long-run batting average was good, and even his wrong judgments were cogently based on such evidence as could be known in advance.

Having mastered the lesson of how to move the United States economy to high employment, Okun devoted the last dozen years of his life to seeking ways to make price stability compatible with full use of society's resources. He sought a better incomes policy—not a perfect one but a better one than what we've been stuck with.

His reason and knowledge made him dubious of mandatory wage-price controls as a permanent solution. But his econometric research correctly predicted that contriving a recession to fight inflation would produce disappointing benefits and staggering human costs.

Okun believed that there must be some compromise program, partly voluntary and partly compulsory, that would bring Presidential leadership to bear on the more flagrant sectors of stagflation—perhaps a "social contract" that persuaded workers to forego real wage increases made untenable by OPEC, but which ensured those who complied against being victimized. Like the physicist Max Planck, who devised the radical quantum theory as "an act of desperation," Okun was willing to try tax penalties against excessive wage and price increases. He died still grappling with our No. 1 problem of stagflation.

DOUBLE VISION

It is well that we have organizations like the Brookings Institution that can provide a research base for policy-oriented economists between tours of government duty. And I welcome the rise in size and stature of the American Enterprise Institute. It is natural that the latter should attract economists who average out to a more conservative viewpoint. But it is healthy that both these Washington think tanks should attract economists spread across the political spectrum.

Harry Truman is sometimes quoted as saying, "What I want is a one-armed economist, who won't pussyfoot with 'on the one hand this, on the other hand that'." With respect, this is foolish. What he'd have is a cripple. For one-armed economists come in two dogmatic varieties, those with a right arm only and those with only a left. And then you need a two-armed eclectic to adjudicate between them.

Arthur Okun looked at both sides of an issue, and then, in striking his judicious compromises, he employed a cool hand in the service of a warm heart.

ART OKUN: THE ECONOMIST AS PHILOSOPHER

(By Richard F. Janssen)

When someone you know well gets his name in the papers a lot, you come to assume the context, and maybe even the message. When the name Arthur M. Okun caught my eye on Monday morning, I assumed the Brookings Institution liberal economist had said something about his least captivating concept, that companies should be pressured through income tax penalties to hold down wages and prices.

It took a while to realize that the verb wasn't the usual "said," it was "died," and at age 51. But perhaps I should have guessed. From the start in the early 1960s, Art Okun didn't match my assumptions.

He was new at the Council of Economic Advisers, and I had been in the Journal's Washington bureau just long enough to be unenthusiastic about meeting yet another "bright young economist." I assumed Mr. Okun would fit the mold: trim, briskly intellectual, and probably impatient at my inability to fathom the formulas and party-line theories he'd be tossing at me.

On the way in, though, an aide advised me to be tolerant of him. "Art sort of comes apart toward the end of the day," he half-apologized. Sure enough, when he turned back to his heaped desk after a rather bashful handshake and mumbled welcome, Art Okun's shirttail was hanging full-length outside his ample waistband. When we talked, it was so easily that I could picture him as one of the undershirted gents who used to relax after work by swigging beer and tinkering with their cars in the alley of my old neighborhood.

Mr. Okun remained distractedly harried, yet good-humored, patient and unpretentious. Even when he was council chairman, a secretary recalls, "We called him Art—everyone else was doctor." When I asked him how he could put so much faith in statistics measuring such a vast economy, he didn't bristle, he answered, in his typical harumph-chuckle combination, "St. Offset." The patron saint of statisticians, he explained, sees to it that errors on the plus side are offset by mistakes on the minus side.

Despite their wide disagreements over policy, his fellow economists never expressed doubt about his brilliance, and ability to communicate his ideas. Even when he was a student at Columbia University, "We looked at him more like a professor," recalls William Freund, a classmate who now is chief economist at the New York Stock Exchange. Art Okun, he says, was "the intellectual type" but knew when to withhold the intellectual jargon, and was "never pushy."

A veteran Washington economics reporter agrees that long after Mr. Okun retreated to the exile of the Brookings Institution (a think-tank congenial to former Democratic officials), a session with Mr. Okun never failed to provide "fresh insights," or to display a penchant for getting to the heart of political-economic issues. In contrast to the many economists these days who rely mainly on mathematical formulas, Mr. Freund calls the former Yale professor "the last of a whole school" of economists who were more in the mold of philosopher than of mathematician.

What did change greatly, of course, was the nation's economic problems. In the council report for 1965, the section on "problems unsolved" dealt with "excessive unemployment" (5.0 percent represents 3.7 million persons seeking work") and "the contrast between our great over-all prosperity and the poverty and misery which still afflict too many families." Inflation, which had been 1.2 percent in 1964 wasn't mentioned among the "challenges" to "the Great Society" of Lyndon Johnson.

Mr. Okun was slow to see the emerging menace, he readily admitted last week in an interview with Journal colleague Lindley Clark. Having overestimated the "slack" that was so central to the successful Keynesian stimulus in the pre-Vietnam period, "I didn't take inflation seriously enough until after 1970," he recalled.

But Mr. Okun lately had been arguing that a recession does more harm than good. Only about 10 to 20 percent of its impact is in slowing inflation, the rest in raising unemployment and reducing output, he estimated. To slice one percentage point off the basic inflation rate that way "will sacrifice roughly $200 billion of production" a year, he figured.

A Washington liberal with his eye on blacks and the poor, Mr. Okun was visibly shaken by the fervor for recession he found in New York's financial community. After mingling with stock and bond people in late 1978, he marveled disconsolately, "it's a different world up here . . . these guys really seem to want a recession."

Concerned that a recession serves neither the causes of fairness nor efficiency in the economy, Mr. Okun had been searching for alternatives, such as his "tax-based incomes policy" which he hoped would give businesses direct incentive to hold down prices and wages. The U.S. economy doesn't respond like "a giant soybean market" to any "invisible hand," or to broad fiscal and monetary policy alone, he reasoned, citing the phenomenon of "the invisible handshake"—non-union businesses granting pay raises even when workers are in abundant supply.

The most popularized and least scientific of Mr. Okun's contributions is undoubtedly the "discomfort index," a simple addition to two disparate but politically sensitive statistics, the rates of unemployment (a percentage of the labor force) and inflation (the annual rate of increase in the consumer price index). Generously, and prudently, he's shared credit for it with this writer, recalling that the concept surfaced over lunch, and somehow came to be taken more seriously than he intended. (The index was 6.4 in 1964, and a striking 19.1 last year.)

The idea most closely linked with Mr. Okun is, of course, the one others dubbed "Okun's law," focusing on how much extra growth in real output it takes to lower the unemployment rate by one percentage point. Recently, however, the jobless rate has declined even with sluggish growth prompting Mr. Okun to make a characteristically wry remark a while back: "Okun's law has been repealed, or at least suspended. And it was my only claim to professional immortality.

He underestimated that, too.

A DISMAL DAY FOR THE DISMAL SCIENCE

(By Hobart Rowen)

Arthur M. Okun, who died too early—at age 51—last Sunday, was a brilliant economist whose academic teachings will endure and be studied by future generations.

But so will his less weighty and more popular simplifications of abstruse economic concepts. Art Okun, over time, became one of the best communicators on his specialty. And Washington reporters, including this one, who depended on his incisive evaluations know this better than anyone else. So do numerous public figures, to whom he freely gave of his time and energy, when asked.

Okun could dream up such things as the 1971 "discomfort index," a simple addition of the unemployment and inflation numbers that tells you at a glance just how badly the economy is behaving. (Right now, the discomfort index is around 24, much higher than in that Nixon year when it was 13.4—even then double the happier days of the Kennedy-Johnson era.)

Then, there was "Okun's Law." How many economists have a law named after them? Okun's Law is a tool for economists to use. It says that for every 1 percent gain in the nation's gross national product, the unemployment rate will drop three-tenths of 1 percent.

Lately, the stagflation that perplexed Okun and his fellow economists seems to have altered that precise relationship—and there is disagreement on whether modification is needed.

Okun is also credited with the rule-of-thumb that everybody uses to define a recession: two consecutive quarters of negative growth in GNP. Until Okun provided that formulation, a boxcar's worth of statistics had to be ordered from the National Bureau of Economic Research.

He patiently sought for the phrase that would make abstract policy issues clear to the public. For example, the message of a guest column he wrote for me on July 21, 1968, while chairman of President Johnson's Council of Economic Advisers, has applicability for today:

"Beware of anyone who claims to have a sure cure [for inflation]. I know that prescription: just create a recession or two, add a few years of sluggish growth, and watch the price curve flatten. That remedy is like cutting off your head to cure a headache."

I first met Arthur Okun when he came to Washington in 1961 as a staff economist for Walter Heller's CEA. Much of the success of that talented council, which also included Yale's James Tobin and the late Kermit Gordon, was due to Okun's spectacular work in the background.

"Art could do and did do everything with numbers that the Treasury and entire Bureau of the Budget could do," said one of his admirers at the time, "and on the back of an envelope."

He became a council member in 1964 and in 1968, at 39 years of age, chairman of the CEA in the midst of the Vietnam era. It was a difficult period for economic advisers. Back in December 1965, Okun and his colleagues had pressed Johnson, as the war escalated, to ask Congress for a tax increase to cover the huge budget increases for the war machine.

But Johnson rejected the proposal as "politically impossible," and his guns-and-butter budgets later precipitated a virulent inflation. "It was a classic example," Okun said, "of fiscal policy veering off course."

Okun nonetheless retained his faith in fiscal policy—modified to bring government more directly into the wage-price process. He was unhappy, in recent years, with what he considered excessive reliance on monetary policy, but blamed the Carter administration (for which he was a time-to-time unofficial adviser) for inaction. He said this Carter failure meant that "the Fed has [by default] the only anti-inflation game in town."

In the past 11 years, while a senior scholar at Brookings, Okun focused on ways to deal with what he felt had become the major economic problem of his time—how to overcome "stagflation."

"The task of combining prosperity with price stability now stands as the major unsolved problem of aggregative economic performance," Okun said in a 1970 essay called "The Political Economy of Prosperity."

Okun never wavered in his belief that monetary and fiscal policy needed to be reinforced by other public policies, including presidential jawboning and wage-price guideposts. He shunned mandatory wage and price controls, but urged that the tax system be put to work as a stick or carrot to enforce guidelines—one of the many so-called "Tax-based Incomes Policies" (TIP, for short).

In conversations in just the past week, he was pessimistic about the prospects for the U.S. and world economy, and dubious that Carter's latest proposals were strong enough to deal with inflation here.

Okun's tragic death robs the nation of a mind that surely would have helped see it through the present morass. It is difficult, yet, for me to accept the reality that I no longer will be hearing the unique little chuckle or words of wisdom of my friend, Art Okun.

ARTHUR OKUN'S CHALLENGE

Arthur Okun, the influential economist who died Sunday at the age of 51, struggled during the last years of his life to find a liberal answer to the problem of inflation. While many Keynesian colleagues abandoned Washington or even liberalism, he held the fort at the Brookings Institution and lobbied with only the force of his ideas to keep the policy options open.

He refused to accept recession as a cure because he knew what pain it would cause before the job was truly done. Instead, the former Chairman of the Council of Economic Advisers kept coming up with socially more attractive, albeit politically harder alternatives. Most recently, for example, he urged Washington to yield income tax revenues to the states so they could reduce sales taxes and lower the inflation index. He thought Social Security taxes could be held down the same way. And he would have subsidized low-paid workers rather than raise minimum wages. Above all, Mr. Okun lobbied recently for using tax incentives to "pay" labor and business to hold down wages and prices.

What he was doing with all this tinkering was serving a profound conviction that America requires constant balance between its rival ambitions for equality and efficiency. He knew the nation never would and never should give up too much of either. He knew there was no remedy in reckless inequality to improve efficiency or in massive inefficiency to enhance equality. Cruel recession was no answer; neither were controls.

Right or wrong, Arthur Okun was wrestling with the hardest problem. It will be harder still without him.●

NATO COOPERATIVE PROJECT FOR A FAMILY OF ADVANCED AIR-TO-AIR MISSILE SYSTEMS

● Mr. PELL. Mr. President, last year the Congress enacted section 27 of the Arms Export Control Act which established North Atlantic Treaty Organization cooperative projects. The provision was passed to support and stimulate NATO rationalization, standardization, and interoperability of weapons systems.

On March 21, 1980, the administration transmitted a notification to the Senate Foreign Relations Committee under section 27(c) of that act concerning a proposed memorandum of understanding between the Governments of the United States, France, Germany, and the United Kingdom to establish a NATO cooperative project for a family of advanced air-to-air missile systems. The proposed memorandum of understanding itself is classified but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

I ask that the unclassified portion of the notification be printed in the RECORD.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 21, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 27(c) of the Arms Export Control Act, and acting under the instructions of the Department of State, I am transmitting under separate cover Transmittal No. 01–80, concerning a proposed Memorandum of Understanding between the Governments of the United States, France, Germany, and the United Kingdom to establish a NATO Cooperative Project for a Family of Advanced Air-to-Air Missile Systems.

Sincerely,

ERNEST GRAVES,
Director.●

NO SUBSTITUTE FOR FREEDOM

● Mr. TALMADGE. Mr. President, I address today an issue which is close to the hearts of those among us who believe in human dignity and the rights of free men and women. I speak of the terrible plight of Anatoly Shcharansky, Andrei Sakharov, Egor Guberman, and hundreds upon hundreds of other courageous human beings imprisoned and suppressed by the Soviet Union in an attempt to preserve the facade of legitimacy projected by that corrupt regime. I also speak of the unfortunate circumstances of the Vashchenko and Chmykhalov families who have taken unofficial refuge in the U.S. Embassy in Moscow since June 28, 1978.

I fear we in the United States have for so long enjoyed the freedom of speech, expression, and congregation guaranteed by our Constitution that we may forget that our fellow men may not enjoy the practice of these fundamental rights, but live out their lives under the burden of subjugation and denial by a totalitarian state based upon the crushing of free expression and free will.

Mr. President, even as we speak, Egor Guberman is on trial for his freedom in the Soviet Union. Anatoly Shcharansky has been illegally imprisoned for 3 long

years in vioaltion of the Helsinki accords, and Andrei Sakharov faces the vindictive wrath of the Communists because he dares speak the terrible truth about the Soviet State. The Vashchenko and Chmykhalov families have been persecuted since 1962 because of their religious beliefs and denied the right to emigrate.

I ask that the Congress of the United States and the American people reaffirm their commitment to the rights of man by decrying, protesting, and condemning this shameful subjugation of free men by Soviet Russia, and insisting upon, no, demanding the freedom of these champions of mankind's liberty: Sakharov, Shcharansky, Guberman, the Vashchenko and Chmykhalov families, and the rest. Many years ago, a great American said: "There is no substitute for victory." I say to you and the people of this Nation: "There is no substitute for freedom."●

JESSE OWENS

● Mr. STEWART. Mr. President, today I would like to honor one of my State's native sons, who died this week at the age of 66. Jesse Owens' life began amid poverty in the Alabama cotton fields as the son of a sharecropper. By the time he died, he proved himself not only one of the greatest athletes of modern times, but a humanitarian as well and a model for young athletes and all persons to emulate.

As the winner of four gold medals at the 1936 Olympics at Berlin, Jesse Owens did more than display an astounding feat of human capacity, setting world records as a sprinter, long jumper, and hurdler which remained unassailable for decades. He also debunked the theory of Adolf Hitler that the blonde, blue-eyed Aryan race was genetically superior and destined for world conquest.

His career by no means stopped after his Olympic triumphs. In decades since, he has inspired others to strive for greatness. He has worked to develop the confidence of uncounted young athletes, whom he held in highest esteem even when they slowly began to approach and surpass his records. The legend of Jesse Owens transcended athletics, and he was an unofficial overseas ambassador for America. The last two Presidential administrations have honored him with the Medal of Freedom and the Living Legends Awards. Although he is no longer with us as a living legend, let us be certain that his legend will always live.●

HONORING LOUIS FAUTSCH

● Mr. CULVER. Mr. President, of all forms of drug abuse in our drug-oriented society, the common disease of alcoholism causes more human misery, poverty, broken families and economic loss than all others. It is only in recent years that alcoholism has been fully recognized for what it is—one of the Nation's most serious health problems.

Throughout the United States, there are unsung men and women who devote their lives to helping other human beings recover from this deadly affliction. Often this work is done anonymously with no thought of personal reward other than the profound spiritual satisfaction of seeing valuable human lives reclaimed and families reunited in health, happiness and faith for the future. I cannot think of any more valuable and unselfish public service than the devotion of a human life to this great work.

Louis Fautsch of Dubuque, Iowa, who is a recovered alcoholic himself and who has devoted much of his life to helping others, is a beloved, legendary figure in our State and other States of the Midwest. Recently the Dubuque Telegraph-Herald awarded Mr. Fautsch, affectionately known as the "Little Judge," their "First Citizen Award" for distinguished public service. An article in the Telegraph-Herald on December 31, 1979, is an absorbing story not only of Louis Fautsch and his life and good works, but of the miracle being wrought, day in and day out, by compassionate people in every American community in salvaging human lives from a dread disease. I ask unanimous consent that this article be printed in the RECORD.

The article follows:

LOUIS FAUTSCH: THE ANONYMOUS HELPER

(By Roxie Hammill)

Louis Fautsch isn't the obvious center of attention in the meeting room of about 40 recovering alcoholics, yet his presence is as pervasive as the smoke that fills the room.

He sits near the back of the room while the speaker tells of his three years of sobriety. When the meeting is over, Fautsch moves quietly from person to person, squeezing a few shoulders, exchanging funny stories and introducing himself to newcomers.

But ask anyone who knows Fautsch, and he or she will tell you that the Dubuque attorney is the guiding force behind a movement that includes hundreds of members in the tri-state area.

"Because recovering alcoholics tend to wish to remain anonymous, and because the tenets of Alcoholics Anonymous are written in such a way that it is not possible for members to 'profit' from their association with AA in a monetary way, the work that Louis has done during his 35 years of sobriety has not been front-page news," said a letter nominating Fautsch for the First Citizen Award.

"You could not choose an individual to receive your award who has done more, usually anonymously, always with the knowledge that the traditions of Alcoholics Anonymous demand that service be donated freely and willingly."

Fautsch founded the first Dubuque chapter of a AA and estimates that he has spent a third of his waking hours counseling alcoholics and spreading information about what he calls the "insidious disease."

For this, he receives no pay. It's this service and dedication that earn him the honor of being selected as the Telegraph-Herald's First Citizen of 1979.

Fautsch has served under seven governors on the Iowa Commission on Alcoholism. The Louis F. Fautsch Alcoholism Treatment Center at St. Joseph's Unit of Mercy Health Center in Dubuque was named in his honor. He also has received the Outstanding Service Award from the National Association for Mental Health and the Dr. Sedlacek Award from the University of Iowa Alcoholism Treatment Center.

In fact, the walls of his modern, eighth-floor office in the Dubuque Building are lined with mementos—certificates from various Iowa governors, black-and-white vintage 1940 photographs and law diplomas. But the highest plaudits come from the people he has helped.

"Louis has kept me going more than anybody else," says a big quiet Irishman who has traveled with Fautsch about 25 years. "He has a real knack for making everyone feel welcome. He's held this place together, as far as I can see."

Part of Fautsch's knack, he says, comes from his storytelling and sense of humor. Others come across as somber and straightlaced, he says, but Louis' humor has been the best medicine to troubled alcoholics.

"The big thing about Louis is that everyone is always glad to hear him talk. He always keeps them interested."

And if they enjoy coming to the meetings, they're more likely to come back and benefit from the program, he says.

The anonymous self-help group was the first in the city to treat alcoholism as a disease instead of something that can be cured by just willpower," Fautsch says.

"In fact, in the early days, all we used to hear about was willpower."

Fautsch grew so tired of the moralizing that usually accompanied the various "cures" for alcoholism that he told the organizer of a Des Moines group, "If this takes willpower, then you can count me out."

That was in 1944. This year, he is celebrating his 35th year of sobriety, and AA is celebrating its 35th year in Dubuque.

In his office overlooking the streets of downtown Dubuque, Fautsch draws on a wealth of anecdotes from his early years with alcohol treatment groups.

He recalls a dinner celebrating the opening of an alcoholism treatment center. Former Iowa Gov. Harold Hughes, himself a recovered alcoholic, attended, as did Fautsch and several others. After the meeting, a man approached Hughes and asked, "How can you set aside a treatment center for drunks when you send people with tuberculosis off to Colorado?"

Hughes responded politely at first, but the man persisted, Fautsch recalls. At last Hughes lost his temper. "You ——— — — ———," he exploded. "There are twice as many drunks in Dubuque than there will ever be tuberculosis patients."

Fautsch became known as the "Little Judge" because he was considered one of the more prestigious members of the organization in its early days. As such, he spoke throughout the United States and helped start treatment groups in Iowa, Illinois, Minnesota, Nebraska and the Dakotas.

After one speaking engagement in Canada, Fautsch was treated to a ride down churning rapids in a canoe made by the Cree Indian tribe of that area. "What a ride that was," he says. "After it was over, they named me Chief of Jumping Waters."

Fautsch has a colorful history of his own. He was born in Dubuque in 1908, and has lived here all his life. He did his undergraduate work at Loras College and received two law degrees from the University of Notre Dame. In 1937, he became the youngest judge of a court of record in Iowa at the age of 29.

Fautsch became well known in Dubuque's Police Court. He participated in weaponry tests with police officers, often scoring better than the police officers, according to friends who nominated him for First Citizen. On one Christmas Eve, Fautsch dismissed the charges against all people coming to his court, wishing them a merry Christmas and warning them, "Whatever you did, don't do it again."

Fautsch is married to the former Lorraine Egelhof, also a Dubuque native. They have a daughter, Louise Strub, and three sons, Louis Jr., Larry and Lee David. Larry Fautsch practices law with his father.

Fautsch hasn't had a lot of time for hobbies, but he says he used to hunt frequently. "I still do, but not nearly as much now." He and companions usually hunted for small game, Fautsch says.

He also collects ceramic heads depicting people from various countries. His collection now includes about 25 heads from several countries, he says.

Things were not always joyful for Fautsch and his family. In 1945, he admitted to himself that his life had become unmanageable because of drinking.

"I was quite a guy," Fautsch says of his early drinking days. "I could stand up and exchange limericks with the best of them. I wished the others wouldn't sing so loud so they could hear me better."

In 1945, he replied to an ad in Argosy Magazine that claimed a relatively new New York group could help people stop drinking and remain happy.

Although Fautsch recalls being skeptical, he got in touch with a Des Moines member of the group. By that time, Fautsch says, he'd had a drinking problem seven years.

After some conversations with the Des Moines group member, Fautsch decided to climb on the wagon. "I came downstairs one morning and told my wife I'd had my last drink," he says. "And, by God, I had."

Fautsch quit cold turkey and never slipped back into his old ways, he says. "It was difficult, but I know it can be done. I also knew I had to keep living with people who drank."

His poker club, for example. In the beginning, Fautsch says, he had to ask the members of his poker group to take their booze with them after playing at his house. "Now, I can have it in my house, but I don't monkey with it."

Fautsch says he drinks a lot of coffee, pop and diet soda instead.

At first, Fautsch attended each weekly in Des Moines, the closest city with a meeting for recovering alcoholics. "It was an all-night ride and I had to change trains twice, but I would have been glad to walk it because of what they were doing for me," he says.

But the trips to Des Moines weren't to last long. The organizers there talked Fautsch into starting a group in Dubuque, which he did about a month later.

The original Dubuque group was "pretty anonymous," Fautsch says. "Not even the drunks would associate with us." The group was made up of about six men meeting in Fautsch's office.

Now, a group meets every night of the week somewhere in Dubuque to talk about their problems with liquor and how they can be overcome.

And most of the members have something nice to say about Fautsch.

"Louis Fautsch has done at least as much as the founders of Alcoholic Anonymous," says one member.

Another younger member of the group credits Fautsch with bringing his mother and father together after a divorce, getting him into a training school for alcohol and drug abuse counseling and helping to solve his own drinking problem.

Fautsch convinced the man's father to attend meetings and stay sober, he says. During that time, he says he could remember going to the meetings and hearing Fautsch speak. "He would always give me orange pop and let me keep what money I could find on the floor. You know, I think he used to throw money on the floor because there was always about the same amount there—about 50 or 60 cents of nickels and dimes."

He says his father's sobriety convinced his mother to return.

Later, he developed his own drinking problem. He says Fautsch was responsible, in an indirect way, for getting him treatment.

One of the rooms of the treatment center at Mercy has a large portrait of Fautsch with a light overhead, he says. That picture can be seen easily from the road.

The man says he had been contemplating his own problem on the way to the hospital to see a friend who was undergoing treatment when he noticed the picture. All those memories of Fautsch's talks came flooding back. "I decided right there to go into treatment," he says.

"Louis was also directly responsible for me going to school," he says, by convincing the director of the alcohol and drug abuse training program at the Mental Health Institute at Independence, Iowa, to accept him, even though he didn't qualify to study there. The man is now a counselor for people with drug or alcohol problems.

A former public official who has participated in the alcoholism group describes Fautsch as a "neat guy" who always seems to have the "right word for the right place at the right time." Like so many others, he had received counseling from Fautsch after he decided to throw away the bottle.

"He develops a rapport with people and it breaks down a lot of barriers," he says. "I spoke in Marquette a while back and I had to bring a list back of folks who just wanted to tell him hello."

But perhaps Fautsch's philosophy can be expressed best through a framed needlepoint hanging in his office of the famous prayer, penned by theologian Reinhold Niebuhr in 1934, which has become AA's motto: "Lord grant me the serenity to accept the things I cannot change, the courage to change the things I can and the wisdom to know the difference."

As for Fautsch, he has spent most of his time changing the things he can.

PREVIOUS WINNERS

Previous winners of the TH First Citizen Award are Roger Rhomberg, a businessman and civic leader, former Dubuque city manager Gil Chavenelle; Gerald "Red" McAleece, retired radio broadcaster and leader in youth and recreation activities; Wayne A. Norman, chief impetus behind the Fuve Flags Center, Rev. Thomas W. Rhomberg, moving force behind Ecumenical Towers Inc.; Jackson "Mac" Farshall, donor of park acreage to Dubuque; Paul E. Hemmer, musician, songwriter and radio station operations director; Leo F. Frommelt, retired city clerk, and Jaqueline "Jacque" Merritt, a promoter of the arts and services to the handicapped.●

EXPORT TRADING COMPANIES

● Mr. GLENN. Mr. President, I rise to join my colleagues, Senators STEVENSON, HEINZ, JAVITS, and BENTSEN in sponsorship of S. 2379, a bill to encourage exports by facilitating the formation and operation of export trading companies. The purpose of this bill is to improve U.S. export performance at a time when American companies are facing vigorous competition in the international marketplace. From every corner of the world, government planning and financing of foreign trade challenges the resources of American firms. To meet this challenge, American companies must organize the most efficient business operations possible. We in Government must do what we can to help American business meet this challenge. We can no longer sit idly by while American firms lose their competitive edge. We must act now to free the adventurous spirit of American enterprise from the yoke of tax laws and Federal regulations that limit its resourcefulness.

One way in which we can do this is by facilitating the formation of trading companies. The trading company is not a new idea. It is as old as commerce itself and has enjoyed great success in other countries. In Japan, for example, the top 10 trading organizations, the Sogo Shoshas, account for approximately 60 percent of Japan's imports and 50 percent of its exports. Trading companies have also played an important role in the economic growth of many European countries. Yet, despite their historical and international success, trading companies have not flourished in the United States.

There are several reasons—both economic and legal—for this failure. It is my contention that the economic conditions no longer prevail and that the legal restraints are outdated as well.

First, we have been generally self-sufficient for the bulk of our economic needs throughout our Nation's history. Second, the industrial revolution occurred early in our history and its effects spread quickly. This made the acquisition and distribution of goods easy and further reduced our dependence on foreign trade. Third, the large size of our domestic market meant that American businessmen had ample growth opportunities close at hand and with relatively low risks involved. These factors, all product of our unique geographic and economic heritage, limited the attractiveness and need of foreign trade companies. These unique conditions no longer prevail. The interdependence and competitiveness of the world market make it impossible for the United States to sustain its economic growth while operating on outdated notions of resource self-sufficiency in limited domestic markets. We must acknowledge and respond to the very real international challenges that confront us in foreign trade.

Unfortunately, Federal laws and regulations limit our ability to respond to these new challenges. For example, Government regulations prevent U.S. banks from offering many important trading services. In addition, antitrust uncertainties deter many U.S. firms from cooperating with other U.S. producers in their organization of export activities. These restrictions are anachronisms. They hamper American firms at a time when foreign governments are cooperating with and, in many instances, subsidizing and directing the efficient operation of export trade. These restrictions cost American businessmen opportunities abroad and cost American workers jobs at home.

Mr. President, S. 2379 addresses many of these obstacles and facilitates the formation and operation of export trading companies. It does so in a way that opens the door of foreign trade to tens of thousands of small- and medium-sized companies not presently realizing their export potential. Once enacted, this legislation will increase opportunities for small- and medium-sized firms to find markets, reduce the costs of sales and increase access to credit. In so doing it will increase U.S. competitiveness in world

markets, improve our balance of payments and stimulate economic growth at home. I urge my colleagues to support this legislation.●

SMALL BUSINESS PROGRESS REPORT

● Mr. NELSON. Mr. President, as chairman of the Task Force on Small Business appointed by the Senate majority leader, I am pleased to report some substantial progress in assisting the 14 million independent enterprises which constitute a vital sector of the American economy. The highlights of this progress are set forth in a "Small Business Agenda for Action in 1980," which the task force is making available to the Senate and the public today as a part of our report.

IMPLEMENTATION OF WHITE HOUSE CONFERENCE RECOMMENDATIONS WELL UNDERWAY

At the Nation's historic first White House Conference on Small Business in January, nearly 1,700 delegates deliberated and agreed upon 60 recommendations, and I shall submit for the RECORD a listing of the delegate recommendations as exhibit I.

In response, within 2 months, the Senate has organized to consider these recommendations systematically with a view to implementation of those upon which a consensus is reached. On February 28, the majority leader (Mr. ROBERT C. BYRD) announced the appointment of a task force for this purpose. The task force is composed of key committee and subcommittee chairmen having jurisdiction over the major small business legislation pending before various committees of the Senate.

The task force has met and agreed upon a plan of action. We are therefore pleased to announce that we have initiated a program to begin the enactment of a broad spectrum of small business legislation in 1980 and subsequent years.

Directly responding to the top White House Conference recommendations, and related Senate legislation, the agenda contains a list of public hearings, committee executive sessions, floor action, and endorsements of pending legislation and other action of specific and major benefit to new small and independent business and to the private enterprise system as a whole.

In my view, it is impressive evidence of the seriousness of this commitment, that several of the hearings have already been started.

SUMMARY OF AGENDA

This agenda may be summarized as follows:

Scheduling of public hearings to take testimony on bills which have been introduced to implement conference recommendations and related matters:

First. Taxes and capital formation: The Senate Finance Subcommittee on Taxation, under the chairmanship of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) has begun two very important sets of hearings.

On March 24 testimony was taken on a number of estate tax bills (such as S. 1825, S. 1984, and S. 2220). The objective is to enact legislation to substantially improve the prospects for continuity of small and family businesses and farms. Estate tax improvements can help keep local ownership of business, which means so much to community life, and can preserve the incentives to expand a business so it can be passed along to one's family. Such an effort responds to delegate recommendation No. 4.

On March 28 and April 1 the Byrd subcommittee begins hearings on all of the remaining White House Conference delegates tax recommendations and related bills pending in the Senate. (Recommendations No. 1, 2, 7, and 9.) The committee's list includes :

1. S. 653 "roll-over" of capital gains from sale of business;
2. S. 487 tax credit for purchasing the first stock offering of a small business;
3. S. 1481 creation of new security called "Participating Debenture";
4. S. 2136 Corporate rate reduction up to $150,000;
5. S. 1435/S. 110 depreciation simplification and reform;
6. S. 2171 elimination of mid-year W-2 form;
7. S. 2168, to increase the number of Subchapter S. shareholders to 100;
8. S. 2239 to restore tax-favored options;
9. S. 1967 to allow creation of a broker-dealer profit reserve for supporting securities of smaller companies;
10. S. 2152, to double eligibility for Used Machinery Investment Credit to $200,000.
11. S 2480, to increase permissible accumulated earnings to $250,000.

Second. Innovation. On March 18, the Senate Small Business Committee commenced hearings on S. 1860, the comprehensive bill designed to support innovative small business. Small firms and individuals account for half of all industrial innovations at a fraction of the cost of their larger brethren. However, they receive only 3½ percent of Federal research contracts. Our bill, S. 1860 proposes to increase the small business share of R. & D. contracts by 1 percent a year up to 10 percent. (Delegate recommendations No. 6 and 14.)

Third. Small business share of energy funds. Senator ROBERT BYRD has announced hearings in the Senate Appropriations Committee to consider proposals to increase the small business share of procurement and research in the rapidly growing energy area, where developing alternative and renewable energy sources can greatly benefit our citizens.

Fourth. Stimulating small business exports. The Senate Small Business Committee commenced hearings on March 12 and 13 to consider S. 2040, a bill to provide financial and other assistance to small business exporters. Now most large corporations export but few small firms do and we need to develop export markets, to improve our balance of payments. Our hearing has set in motion follow-up hearings in the Senate Banking Committee with the objective of reporting export-assistance legislation to the Senate floor for consideration in 1980. (Responds to five delegate recommendations on international trade.)

Fifth. Capital formation credit and securities. The Senate Banking Committee began joint hearings with the Senate Small Business Committee on March 3 and 5 which will continue on April 24 and 29 on the securities and credit aspects of small business capital formation. During the 1970's small companies and venture capital financiers were virtually excluded from the national capital markets. Growing institutionalization of financial markets could make the situation even worse in the future. These hearings will consider bills such as S. 2239 (options), S. 1967 (broker-dealer profit reserve), the administration's "Small Business Issuers Simplification Act," S. 1940, and S. 1533, in an effort to reverse these unfortunate trends. (Delegate recommendations No. 7, 9, and 11.)

Sixth. Overall response to delegate recommendations. The Senate Small Business Committee promptly began public hearings on March 3 and 5 with the intend of covering all of the 12 areas addressed by the White House Conference, particularly those areas which other committees do not cover. The first series of hearings is in the area of capital formation, which contained 5 of the top 10 recommendations.

Scheduling executive committee markup sessions to prepare legislation already pending before committees for consideration by the full Senate:

First. Regulatory flexibility. A markup of a pending bill to inaugurate a system of "regulatory flexibility" (S. 299) has been scheduled for early April before the Senate Judiciary Committee. This legislation is aimed at getting Federal agencies to scale their regulations, reporting, and paperwork according to the size of the businesses involved and the resources they have available to comply.

It is well known that as businesses grow larger, they can afford the services of full time bookkeepers or public accountants. But new and small enterprises often must make do with part time help and advice.

Therefore, it could be tremendously helpful if, for example, Government reports could be scaled down to once every 2 or 3 years for small business. Another possibility is reporting on a sampling basis for smaller firms, instead of once a year or once per quarter. (This responds to delegate recommendations No. 5 and 15.)

Second. Comprehensive regulatory reform (including sunset provisions). A completion of the markup on two major bills which deal with this subject (S. 262 in the Governmental Affairs and S. 2147 in the Judiciary Committee) have been announced for early April. In this area of vital importance to small business the task force is working for enactment in 1980 of omnibus legislation which includes the following provisions:

Detailed analysis of anticipated costs and proposed benefits of major regulations;

Strengthened oversight and management of the regulatory process;

Specific provisions addressed to small business problems.

(Delegate recommendations No. 5 and 15.)

Third. Paperwork reduction. Small businesses know from experience that paperwork requirments of Federal, State, and local governments are excessive. The very sizable reductions of reporting resulting from the work of the Senate Small Business Committee—which I will summarize later in this report—lead us to believe that Government paperwork could be cut 50 to 75 percent and at the same time improve the quality of the information submitted. The task force has accordingly urged that paperwork reduction legislation such as S. 1411 be marked up in the full Governmental Affairs Committee, following the early markup contemplated in the Subcommittee on Federal Efficiency. Additionally, the task force supports a target for immediate Federal paperwork reduction of 25 percent within 18 months.

Fourth. Small business advocacy. The Advocacy Office at the Small Business Administration has proved to be one of the most effective voices of small business before Federal agencies and the public. The Advocate, backed up by a small staff of experts and researchers, is a partial answer to the difficulties faced by 14 million American small businesses—infinitely diverse and scattered throughout the country—in responding to adverse agency decisions or complex new forms. By mid-June, the Senate Appropriations Subcommittee, under the Senator from South Carolina (Mr. HOLLINGS), will consider how to preserve and strengthen the small business advocacy function through appropriations bills.

Also, the Senate Small Business Committee will act during 1980 to strengthen the statutory foundation for advocacy activities. (Delegate recommendation No. 10.)

Adoption of policy positions, to advance legislative and other actions which will be beneficial to the small business community.

First. Balance budget/inflation. The task force unanimously endorsed the objective of a balanced budget for fiscal year 1981 for the purpose of combating inflation, which is a paramount concern of all small businesses. (Delegate recommendation No. 3.)

Second. Elimination of "carryover basis" rules from the estate tax. The task force endorsed final enactment of this provision which is part of the windfall profit tax bill (H.R. 3919) that had already passed the Senate, and which I am pleased to report was signed into law just today.

Third. Access to courts and magistrate review of penalties. At present, a small business owner contesting a Federal regulation of general applicability, or the assessment of a penalty, is fighting an unequal battle because of the vastly superior resources of the Federal Government. The task force therefore urged House consideration and passage of S. 265 offering relief to small business in the judicial access and penalty areas. This measure has already passed the Senate. (Delegate recommendation No. 12.)

Fourth. Patent reform. The Small Business Committee has found that small firms are victimized by the present patent system almost as often as they are helped by it. The task force urged action on small business patent reform, along the lines of presently pending S. 414 or S. 1679, which are now on the Senate calendar. The task force also urged sufficient appropriations to strengthen the patent office, so processing backlogs can be reduced.

CONSIDERATION BY THE FULL SENATE

In each of these instances, it is contemplated that the measures being considered by these subcommittees and committees, will, when perfected, be placed on the calendar for consideration by the full Senate. We believe that there is an excellent prospect for action on a number of these measures this year and next year.

AGENDA IS DIRECTLY RESPONSIVE

This program is directly responsive to the recommendations of the delegates to the White House Conference on Small Business, and also to the many small business organizations who are testifying on Capitol Hill over the years on the major problems of small and independent enterprise. In my view, it is a sound and realistic agenda for action. The agenda has been assembled by those Senators who have direct responsibility over the area concerned.

I believe the task force members deserve the thanks of the small business community for their splendid cooperation in assembling the overall task force agenda, and in carrying forward the work on the bills within their committees. The members have already identified the legislation and other action which can implement the White House Conference delegate recommendations and relieve other pressing small business and economic problems, and have mobilized their resources to consider these matters, so that measures can move forward all along the line. Membership follows:

TASK FORCE MEMBERSHIP

Sen. Gaylord Nelson, Wisconsin, Chairman, Select Committee on Small Business, Chairman; Finance, Chairman, Subcommittee on Social Security; Labor and Human Resources.

Sen. Alan Cranston, California, Assistant Majority Leader, U.S. Senate; Banking, Chairman, Subcommittee on Financial Institutions; Veterans' Affairs, Chairman; Labor and Human Resources.

Sen. Ernest F. Hollings, South Carolina, Appropriations, Chairman, Subcommittee on State, Justice, Commerce and the Judiciary; Budget (no subcommittees) 3rd ranking member; Commerce, Science and Transportation, Chairman, Subcommittee on Communications; Member of Subsommittee on Science, Technology and Space.

Sen. Donald Stewart, Alabama, Agriculture, Chairman, Subcommittee on Agricultural Research and General Legislation; Banking, Member, Financial Institutions Subcommittee; Select Committee on Small Business.

Sen. Thomas F. Eagleton, Missouri, Governmental Affairs, Chairman, Subcommittee on Government Efficiency; Appropriations, Chairman, Subcommittee on Agriculture and Related Agencies; Labor and Human Resources.

Sen. John C. Culver, Iowa, Judiciary, Chairman, Subcommittee on Administrative Practices and Procedures; Armed Services; Environment and Public Works, Chairman, Subcommittee on Government Regulations and Paperwork; Select Committee on Small Business, Chairman, Subcommittee on Government Regulation and Paperwork.

Sen. Gary Hart, Colorado, Armed Services, Chairman, Subcommittee on Military Constitution; Member, Subcommittee on General Procurement; Budget (no subcommittees); Environment and Public Works.

Sen. Wendell H. Ford, Kentucky, Commerce, Science and Transportation, Chairman, Consumer Subcommittee; Ranking Member, Subcommittee on Science, Technology and Space; Energy and Natural Resources, Chairman, Subcommittee on Energy Resources and Materials Production; Rules and Administration (No subcommittees).

Sen. Bill Bradley, New Jersey, Energy and Natural Resources; Finance, Chairman, Subcommittee on Revenue Sharing and Economic Problems; Special Committee on Aging.

SIGNIFICANCE OF THE SENATE TASK FORCE

Mr. President, it is encouraging after many years during which small business problems received inadequate attention in Government, to see the small business task force organized and proceeding with swift and effective action. In my view, the majority leader's task force adds a number of significant dimensions to this work, which may be summarized as follows:

The task force is sheperding the response to the White House Conference, assuring early congressional attention for virtually all of the high priority and many of the other recommendations of the Conference;

It has allocated definite responsibility among task force members for moving the top priority bills forward;

It has set definite dates for the consideration of many of these matters in public hearings and executive committee markups;

It has established a coordinating mechanism for those Senators who are deeply concerned about small business and those who are in a position to help;

It has established a channel of communication between the committee and subcommittee chairmen and the Senate leadership, which will be highly beneficial to the progress of legislation;

It offers a focal point for cooperation of the Senate with the President and House of Representatives. We therefore have a beginning of a foundation for joint and cooperation action across the entire Federal Government.

This is a formula for action. I commend the imagination and initiative of the Senate majority leader (Mr. ROBERT C. BYRD) who conceived the idea of the task force, and also each of the members of the task force who have brought it to life and given it a meaningful program in such a short period of time.

THE COMPLETE TASK FORCE AGENDA

The detailed agenda, as agreed upon by the task force, is set forth below for the full information of the other Senators, the small business community and the public:

SENATE SMALL BUSINESS TASK FORCE AGENDA FOR ACTION IN 1980

In response to the recommendations of the White House Conference delegates, the Senate Small Business Task Force has listed the following agenda of hearings, related actions, and the results which may be expected from these efforts:

SUBJECT	SPECIFIC ACTIONS TO BE TAKEN	EVENTUAL GOALS
1. Taxes and Capital Formation (H. Byrd–Finance) (Bradley–Finance) (Nelson–Finance)	*Hearings to begin* March 28 and April 1 on the entire range of Small Business Capital Formation proposals by the Taxation Subcommittee of the Senate Finance Committee, including the following bills: 1. S. 653 "roll-over" of capital gains from sale of business; 2. S. 487 tax credit for purchasing the first stock offering of a small business; 3. S. 1481 creation of new security called "Participating Debenture"; 4. S. 2136 Corporate rate reduction up to $150,000; 5. S. 1435/S. 110 depreciation simplification and reform 6. S. 2171 elimination of mid-year W–2 form 7. S. 2168, to increase the number of Subchapter S shareholders to 100; 8. S. 2239 to restore tax favored options; 9. S. 1967 to allow creation of a broker-dealer profit reserve for supporting securities of smaller companies; 10. S. 2152, to double eligibility for Used Machinery Investment Credit to $200,000. 11. S. 2480 to increase permissable accumulated earnings to $250,000.	Consideration in 1980 by Finance Committee and passage by full Senate in 1980 of tax legislation to improve capital formation, recovery and retention, which does not involve significant revenue loss. (These hearings respond to delegate recommendations Nos. 1, 2, 7 and 9)
2. Capital Formation—Estate Taxes (H. Byrd–Finance) (Bradley–Finance) (Nelson–Finance)	*Hearings underway* on March 24 in the Senate Finance Subcommittee on Taxation on Estate Tax Revisions (S. 1825, S. 1984, S. 2220); also, the Task Force advocates final action on elimination of "carry-over basis" of 1976 estate tax law	Enactment of legislation to improve prospects for continuity of businesses and farms; including provisions of H.R. 3919 whch would eliminate carry-over basis provisions. (Delegate recommendation No. 4)
3. Budget Policy—Inflation (Hollings, Hart)	*Endorse balanced budget.*	Achieve balanced budget for coming fiscal year (1981) to combat inflation. (Delegate rec. No. 3)
4. Capital Formation—credit and securities (Cranston-Banking) (Stewart-Banking and Small Business) Nelson-Sm. Business)	Joint hearings underway by Senate Banking and Small Business Committee, March 3, 5, and April 24 and 29.	Possible legislative action on credit and securities matters. Delegates recs. No. 9, and 11)
5. Regulatory Flexibility (Culver-Judiciary)	Mark-up of S. 299 scheduled for early April in Senate Judiciary Committee	Enactment in 1980 of legislation to empower and encourage agencies to scale regulations and paperwork requirements to the size and resources of the businesses regulated. (Delegates recs. Nos. 5 & 15)
6. Comprehensive Regulatory Reform (Culver-Judiciary) (Eagleton-Gov't Affairs)	Completion of mark-up to be scheduled on S. 262 in Governmental Affairs Committee; also S. 2147 in Judiciary Committee, on which mark-up is scheduled for early April.	Enactment in 1980 of omnibus legislation Including: a) detailed analysis of anticipated costs and proposed benefits of major regulations; b) strengthened oversight and management of the regulatory process; c) specific provisions addressed to small business problems. (Delegate recs. Nos. 5 & 15)
7. Paperwork Reduction (Eagleton-Gov't Affairs)	The Task Force urges mark-up of legislation such as S. 1411 in full Government Affairs Committee following presently contemplated mark-up by Subcom. on Federal Spending. Additionally, the Task Force endorses, as a target a 25 percent reduction in paperwork burdens within 18 months.	Enactment of legislation in 1980 to reduce paperwork burdens by: 1) eliminating present loopholes in clearance procedures for new reports; and 2) requiring comprehensive periodic reviews of existing forms. (Delegate recs. Nos. 5 an 15)
8. Access to Courts and Magistrate Review of Penalties (Culver)	The Task Force urges House passage of S. 265, covering these matters, which has passed Senate.	Enactment of legislation in 1980 along the lines of S. 265. (Delegate rec. No. 12)
9. Small Business Advocacy (Hollings-Appropriations) (Nelson-Sm. Business)	Consideration by mid-June on the part of the Senate Appropriations Committee on SBA advocacy function, also strengthen statutory authority for advocacy activities.	Legislative action in 1980 to preserve and strengthen SBA Advocacy program. (Delegate rec. No. 10)
10. Innovation (Nelson-Sm. Business) (Hollings-Appropriations) (Ford-Commerce)	Hearings underway on Omnibus Small Business Innovation bill (S. 1860) in Small Business Committee, beginning March 18, 1980.	Consideration on Senate floor in 1980 of increasing small business share of research and development as well as other provisions of the bill. (Delegate recs. No. 6 and 14)
11. Patent Reform (Culver-Judiciary) (Hollings-Approp.)	The Task Force urges action on small business patent reform along the lines of S. 414 and/or S. 1679 which are now on the calendar and also urges sufficient appropriations to strengthen patent office to reduce backlog.	Enactment in 1980 of small business related patent reform bills, including stronger patent office.
12. Procurement-Small Business Share (Various Senators)	The Task Force urges various committees having jurisdiction to explore the potential benefits to the economy of increasing small business share of government research and other contracts.	Progressive increase in small business share in major procurement programs. (Delegate rec. No. 14)
	Hearings to be scheduled in the energy area in Appropriations Committee by Robert Byrd.	Consideration of small business share of Dept. of Energy R & D in connection with 1981 appropriations.
	The Task Force also advocates similar hearings in such other areas as Defense, the Space Agency, National Science Foundation and the Departments of Commerce, Transportation and Housing.	

SUBJECT	SPECIAL ACTIONS TO BE TAKEN	EVENTUAL GOALS
13. Stimulate Small Business Exports (Nelson)	Hearings held on S. 2040 in the Small Business Committee on March 12 and 13, to be followed by hearings in Banking Committee, the dates of which have not been announced.	Clean bill for Senate floor consideration on financial aid for small business exporters. (Responds to five recommendations in the area of International Trade by delegates)
15. Product Liability (Commerce Consumer Subcommittee)	Hearings to be held in mid-1980, to include small business testimony.	Eventual enactment of product liability relief legislation which would aid small business.

Mr. NELSON. To place these developments in perspective it would be appropriate at this point to sketch in the background of the White House Conference on Small Business.

HISTORY—NEED FOR THE WHITE HOUSE CONFERENCE

Those familiar with the condition of small business in this country had been discouraged by adverse trends since World War II. By 1975, a low point had been reached.

A recent report of the Select Committee on Small Business (Senate Report 96–31, March 7, 1979) summarized as follows:

Despite the outstanding contributions of small business to American life, several decades of neglect had left the small business community in this country on the critical list by mid-1970's.

In 1975, there were 30,000 business bankruptcies, twice the average for the late 1960's. Thirty percent of all new businesses were failing within the first year. Among existing businesses, the number of newly registered stock issues by firms worth less than $5 million dropped from a high of 698, in 1969, to only three in that year.

By November of 1975, author Irving Kristol could write in The Wall Street Journal that the small business owner was "today's forgotten man."

In an effort to turn things around, the Senate Small Business Committee has held over 300 days of public hearings on a broad range of small business problems during the past 5 years.

As a result of those hearings and resultant legislation, there has been some large breakthroughs made in reversing these trends of the last three decades.

BILLIONS OF DOLLARS IN SMALL BUSINESS TAX REDUCTIONS

Business taxes have been restructured to aid smaller businesses in several of the most fundamental areas of the law:

Corporate income taxes were made progressive up to $100,000. This saved up to $14,750 in taxes for any company earning $100,000, and a total of $2 billion for all of the smallest 94 percent U.S. corporations.

Estate taxes were thoroughly reformed for the first time since 1942. The estate tax exemption was tripled from $60,000 to $175,625 for children and was increased to $425,000 for surviving spouses.

Capital gain taxes on investment income were rolled back 49.1 percent to 28 percent.

Capital Recovery. A sweeping depreciation simplification and reform bill which would have benefited 80 percent of all businesses passed the Senate in 1978, but was not enacted.

EXAMPLES OF MASSIVE REDUCTIONS IN FEDERAL PAPERWORK

Some significant reductions in Government forms and reporting were achieved through Senate Small Business Committee efforts in recent years. These examples clearly indicate the feasibility of a massive reduction in Government paperwork in the future.

Committee hearings led to the creation of the Federal Paperwork Commission in 1974, which undertook a major review of paperwork requirements imposed on businesses and the public. The Commission's final report made 649 recommendations, one-third of which have already been implemented.

An amendment to the 1977 minimum wage bill reduced 8 pages of applications, notices, and instructions on hiring part-time students to a single post card with 4 questions. In the following year, there was a six-fold increase (from 900 to 5,800) in the number of businesses willing to apply under this program.

A committee bill in 1978 consolidated, into a single annual filing, the "941 employment form" on which each of the 4½ million employers had listed the name of every employee four times a year. This eliminated a stack of paperwork more than 2 miles high annually.

Committee hearings and correspondence helped bring about a reduction in ERISA form EBS–1 from 16½ pages to 5½ pages, eliminating 7 million pages of paperwork yearly for retirement plans.

The Treasury Department eliminated two revenue sharing reports per year after it was brought to its attention that more detailed information was already being collected by the Census Bureau. All 38,000 of the Nation's governmental units were spared this additional paperwork.

The Small Business Administration reduced its affirmative action form from 19 pages to 7. This eliminates 12 pages of unnecessary paperwork for an estimated 26,000 businesses.

Another committee amendment to the 1980 Housing Act exempts a half-million homebuilders and realtors and approximately 7,000 new housing subdivision yearly from filing extensive Federal documents pursuant to 60 pages of regulations, provided all the lots are sold to buyers within the same State.

A pending bill permitting W–2's to be filed once at yearend, instead of after every one of the 65 million midyear job changes, will save businesses $300 million annually in addition to the waste of time and effort in filling out these extra forms.

OTHER ACCOMPLISHMENTS

A series of other initiatives result in progress in the area of curbing unnecessary regulations, strengthening capital formation, improving small business prospects under Government contracts and subcontracts, and giving small business greater participation in the Nation's critical energy and technology efforts.

These Small Business Committee activities also provided an excellent focus for educating Members of the Senate and the public about the complexity of far-ranging and interlocking small business problems.

However, in the course of this effort, it became clear that congressional initiatives have some limitations. Lasting progress across the board can only be secured by continuing cooperation by all branches of Government. It became increasingly clear to us that small business needed an overall strategy to encourage and assist new, small, local and independent enterprise as a vital sector of the American economy.[1] Our committee advocated a White House Conference on Small Business in its annual reports for several years as a vehicle for developing "a national policy—in each branch and on every level of Government—that will make small businesses more visible, give them higher priority so that traditional small business values will be preserved." [2]

At the announcement of the conference, its potential was envisioned as follows:

A White House Conference is the ideal forum to examine the problems of small business because the White House commands national and world attention and could encourage a comprehensive strategy that can cut across the entire American economy, in order to create a better environment for small business to begin to grow, thrive and finally, survive from one generation to another.[3]

SMALL BUSINESS ORGANIZATION IMPROVES

During the past 5 to 10 years, the common problems and common interests of the Nation's 20 to 50 million small business owners also found expression in greater membership and more activity in national, regional, local, and trade associations.

The most numerous national small business groups, the National Federation of Independent Business (NFIB), had less than 100,000 members in 1953. By the end of 1970 the number had grown to 260,000, and during the 1970's, the total more than doubled to 555,000 in 1978.

During the same 25-year period, the National Small Business Association (NSBA) grew from 20,000 to 50,000 members. Three years ago, NSBA organized a coalition of trade associations predomi-

[1] See "Small Business—A Vital Sector", remarks on the Senate floor by Majority Leader Robert Byrd, CONGRESSIONAL RECORD, January 31, 1980, page S.691.

[2] 27th Annual Report of the Senate Select Committee on Small Business (Senate Report 95–30), February 25, 1977, page 3; see also 28th Annual Report (Senate Report 95–629), February 1, 1978, pp. 11–12; also 29th Annual Report (Senate Report 96–31), March 7, 1979, pp. 5–8.

[3] Remarks at the announcement of the White House Conference by Senator Gaylord Nelson, Chairman of the Senate Small Business Committee, April 6, 1978.

nately made up of small businesses. This coordinating mechanism in Washington, D.C., was named the Small Business Legislative Council. The coalition currently encompasses 77 groups which speak for about 4½ million business members.

There was a similar growth in activity at the regional level. The annual "Small Business Week Presentation" in May of each year is an opportunity for the regional organizations to personally inform the Congress of their special problems, and to recommend solutions. In 1970, there was only one regional association, the Smaller Business Association of New England (SBANE). In 1971, they were joined by the Independent Business Association of Wisconsin and the Smaller Manufacturers Council of Pittsburgh. By 1978, there were nine active regional associations and in 1980, 32 States were represented as participants and observers. These groups increasingly came to Washington not only for Small Business Week, but throughout the year—to learn, to testify, and to participate in the governmental process.

There was similar growth among organizations of firms in the same trades or industries. For example, the National Association of Wholesaler-Distributors currently is made up of 108 national associations. Recently this group expanded in another direction by forming 30 State task forces to deal primarily with product liability problems.

Several years ago, four of the national groups and four of the regional organizations began coordinating their efforts as the Council of Small and Independent Business Associations (COSIBA). This has proved to be a very convenient medium for discussion and action.

The effectiveness of all of these developing small business organizations was manifested in the legislative victories which I have described above.

So, the climate in Congress and in the private sector, was becoming increasingly congenial to a major national effort to improve the prospects for small business and the free enterprise system.

THE WHITE HOUSE CONFERENCE IS PROPOSED

All of these impulses came together in 1976, in the course of a visit of candidate Jimmy Carter to the State of Wisconsin during his Presidential campaign. On a flight from Milwaukee to Eau Claire, I suggested that the small business community needed a White House Conference to focus the best thinking on the problems which prevented them from making their maximum contributions to the American economy and society.

Following the 1975 election, we furnished a number of memorandums to the President and Vice President, spelling out this concept of the White House Conference. I shall submit such material for the RECORD as bearing upon the origin of the conference as exhibit II.

In March 1977, the Small Business Committee offered and the Senate passed Senate Resolution 105, which called upon the President to convene such a White House Conference. I shall submit for the RECORD a copy of this resolution also as exhibit III.

On October of 1977, I presented to the President and the Vice President, an extensive memorandum on the problems with which small business owners were most concerned, and which should be addressed by legislation and a nationwide White House Conference on Small Business.[4]

On April 6, 1978, the President, announced that he would conduct such a Conference.

PREPARATION FOR THE CONFERENCE

From the beginning, the White House became directly involved in arrangements for the conference. Vice President MONDALE greeted the representatives of over 200 small business and trade organizations on July 25, 1978, for the preplanning meeting within the White House itself.

President Carter presided over the swearing in of the 11 Commissioners for making up the Advisory Commission on the White House Conference, chaired by Arthur Levitt, chairman of the American Stock Exchange.

High administration officials and White House staff advisors participated in many of the subsequent State and regional forums and the delegates meetings.

As the conference proceeded, we learned that a "White House Conference" goes far beyond an isolated meeting in Washington, D.C. It involves regional, State, and local meetings. In the case of this White House Conference, there were 12 regional and 45 State meetings. In two States, Washington and Wisconsin, there were also local grassroots meetings throughout the entire State.

In my own State, almost 1,200 small businessmen attended the briefing sessions in a dozen locations. They discussed the issues and prepared to elect delegates. Wisconsin set an excellent pattern for subsequent White House Conference proceedings. Wisconsin business owners setup a statewide steering committee to coordinate preparations for the conference. The steering committee, in turn, was instrumental in selecting the moderators who supervised the issue discussions. The Wisconsin State forum which took place in Milwaukee on June 26, 1979, was the largest of all of the field meetings, and one of the liveliest and most productive. Because the leading State organizations gave their resources and their enthusiasm to this effort, the issue workshops and other discussions produced a wealth of practical suggestions and a "can-do" spirit.

All of these meetings proved to be a tremendous vehicle for education of Government officials, Federal, State, and local government officials, the media, the academic community and small businessmen themselves as to the scope and depth and complexity of small business problems, and how they affected the various segments of the small business community.

The meetings were a tremendous asset to small business. They began to encroach upon one of the greatest problems, the lack of small business visibility.

And, out of these meetings came 2,000 delegates to be the representatives of the small business community at the conference in Washington.

THE WASHINGTON CONFERENCE

On January 13 through 17, 1980, 1,700 elected and appointed delegates and an equal number of interested observers convened in Washington, D.C. for the country's first Small Business Persons White House Conference. The proceedings were highlighted by an address from President Carter at the opening session.

On the next 2 days, each of the delegates chose 2 of the 12 issue areas in which to personally participate in the intensive process of formulating recommendations.

After briefing sessions and workshops on these issues had obtained the views of the delegates, the moderators of the sessions gathered together to hammer out the final working of recommendations to place before the conference.

When the 60 recommendations, five from each area, were presented, each of the delegates voted to establish the highest priority items.

PARALLEL WORK IN THE SENATE

During the year and a half prior to the White House Conference, the work on small business matters continued in the Congress. In some cases, we were able to draft proposals based upon discussions at the preliminary regional and State White House Conference meetings. In many other areas, the Senate moved forward in response to testimony at the congressional hearings presented by small business owners and their able spokesmen and organizations.

A committee document, prepared in late 1979 reflect the diversity of the work which was going on in Congress and some of the progress which had been made in some of these areas prior to the conference and its recommendations. I ask unanimous consent that this summary also be included following my remarks (see exhibit IV).

It is not surprising that most of the major issues suggested by the White House Conference were also issues addressed in congressional hearing. These were the central, common, and recurring problems: tax equity, capital formation, excessive paperwork and regulations, expanding opportunities for small business in research and other Government contracting, product liability, export assistance, and so forth.

WHAT IS AT STAKE IN THE EFFORT TO PRESERVE SMALL BUSINESS

The White House Conference has given a tremendous impetus to the effort to help the free enterprise system work better. It has opened the door to a wide range of action in behalf of the Nation's independent enterpreneurs. In my view, the conference has done more

[4] Memorandum summarized in "Shortage of Capital Causing Flight of U.S. Technology to Foreign Countries—Overhaul of Tax and Capital Formation Policies Urgently Needed for Small Business" in "Capital Formation Part I," hearings before the Select Committee on Small Business, Feb. 8 and 10, 1978, pp. 206–218.

than any other event in my lifetime to project to the public the many fundamental contributions which small businesses make to their neighborhoods, their communities, their States, regions, and to national strength.

There is greater understanding now that small business accounts for more than half of all the private sector jobs in the country. The public has been exposed to the statistics showing that new and small firms (of 100 or less employees) account for about three-quarters of all the new jobs in the economy, 48 percent of the gross domestic product, and 43 percent of the entire cross national product.

The scholars are finding that a healthy small business community is the first to expand employment in prosperous times, including the hiring of lesser skilled workers. They are among the last to discharge employees when the economy turns down. They are thus one of the most important forces for community stability.[5]

Through their innovation and their competitiveness and contact with the public, small businesses fight inflation through new products and better methods and through working harder, longer, and smarter. They make our economy more competitive, productive, and efficient, so we can maintain our standard of living.

We are also constantly reminded that small business keeps alive the American dream—that a person can own his own business and therefore control his own destiny—that he or she can prosper by their own efforts and to do things in their own way rather than be bound by the set procedures of big government, big business, or big labor. This dream burns undimmed in a great number of Americans, and also in persons in other nations around the world. If the vital dynamism of entrepreneurship is quenched in the United States, then much that we treasured most will go out of American life, and the effects will be felt around the world.

Therefore, the well-being and success of American small business has great implications—not only for the fabric of our own economy and society, but also for the prospects for private enterprise elsewhere.

IMPLEMENTATION OF THE SMALL BUSINESS AGENDA

It is therefore my pleasure to report that the Senate has responded well to these challenges and opportunities. The agenda for action which the Senate Task Force on Small Business has developed is in direct response to the recommendations of the White House Conference delegates.

The process of implementing these recommendations, and related Senate initiatives is underway and is moving ahead. The task force will encourage and assist in the further steps to enact pending proposals in the Senate.

[5] See "Small Business and the Quality of American Life", Committee Print of the Senate Small Business Committee, November 7, 1977.

With the Small Business Task Force in existence, I believe it is quite likely that there will be a series of major small business bills moving through the Senate in 1980, and in future years. In my view it is appropriate that the Senate which gave birth to this idea should take a leading part in following it through.

This effort to have a "Small Business Program for 1980" also has received the enthusiastic support of President Carter. I hope the President will address a joint meeting of the Senate and the House to present his small business recommendations and give further momentum to implementing small business recommendations on a broad front in the near future.

The Senator from Virginia (Mr. HARRY BYRD) and others have talked of the desirability of having a task force similar to ours in the House of Representatives, and I hope this will happen.

Accordingly, we look forward to working with all who are concerned with the prospects of small business, including the President, the House, the small business community, and other organizations in this endeavor.

The material follows:

EXHIBIT I

BALLOTING ON WHITE HOUSE CONFERENCE RECOMMENDATIONS

THE TOP 15

Below is a summary of the 15 issue options which received the most votes from the delegates:

1. Graduate the corporate and individual income tax schedules; set the corporate surtax threshold at $500,000, 1,129 votes.

2 Simplify and accelerate the capital cost recovery system. 818 votes.

3. Balance the federal budget by statute in Fiscal Year 1981 by limiting total federal spending to a percentage of the GNP, commencing with 20 percent and declining to 15 percent. 807 votes.

4. Lower estate taxes for family-owned businesses. 799 votes.

5. Institute sunset reviews of all laws, regulations, and agencies, to ensure that none exceeds original congressional intent. Cost benefit analyses of the impact of each regulation and agency should be undertaken by a Regulatory Review Board composed of representatives from the Executive Branch, Congress and small business owners. Congress may line-item veto regulations, with only a one-house floor vote. 757 votes.

6. Support and urge passage of the Small Business Innovation Act, which proposes revisions in the tax, patent, regulatory and procurement codes to foster greater small business innovation and subsequent commercialization, 746 votes.

7. Provides for a tax credit for initial investment in a small business, and permit deferral of taxes for roll-overs of investments affecting small business, 681 votes.

8. Move the Social Security System toward actuarial soundness by: (1) including all constitutionally eligible public and private sector employees as contributors; (2) limiting benefits to the original old-age and survivor benefits; (3) freezing the tax base and rate at the January, 1980 level; and (4) eliminating double dipping. 675 votes.

9. Create a new security called a Small Business Participating Debenture to provide another source of capital for small businesses. 646 votes.

10. Preserve the independence of the Office of Advocacy, making its mission the top priority at the Small Business Administration (SBA), by ensuring its budget to be not less than 5 percent of the SBA salary and expense budget. 597 votes.

11. Private lending institutions should be required to provide equal access to commercial credit for women in business. 578 votes.

12. Small businesses who win civil disputes with the federal government should be reimbursed for court costs, reasonable attorney's fees, and damages from administrative action. 564 votes.

13. Freeze minimum wage standards at January, 1980 levels, and establish a two-tier minimum wage by exempting teenagers, seasonal workers and part-time workers. 553 votes.

14. Mandatory procurement goals should be set for federal contracts to reach the following percentages (on a contract-by-contract or agency-wide basis): 35 percent—small businesses; minority-owned businesses—15 percent; and women in business—10 percent. 472 votes.

15. Similar to number 5, excluding the line-item Congressional veto and the Regulatory Review Board. 471 votes.

By subject area, this is where the top 15 votegetters fall: Capital Formation, 5; Women in Business, 1; Minority Business Development, 1; Government Regulations and Paperwork, 2; Innovation and Technology, 1; Economic Policy and Government Programs, 2; Inflation, 3.

THE DELEGATE CHOICES

The options below represent the five which received the most delegate votes in each of the 12 issue areas. Delegates voted on the final day of the Conference for their 15 preferences out of this list of 60. The results of the ballot appear above.

CAPITAL FORMATION AND RETENTION

1. Replace the present corporate and individual income tax schedules with more graduated rate scales, specifying the graduated corporate tax scale up to $500,000.

2. Adopt a simplified accelerated capital cost recovery system to replace the present complex Asset Depreciation Range (ADR) regulations, with provisions such as: (a) immediately expensing capital costs less than a specified amount, (b) immediately expensing government mandated capital costs, and (c) the creation of a maximum annual benefit that may be derived from the system.

3. Revise estate tax laws to ease the tax burden on family-owned businesses and to encourage the continuity of family ownership.

4. Provide for a tax credit for the initial investment in a small business, and permit deferral of taxes for roll-overs of investments affecting small businesses.

5. Provide tax incentives in the form of a new security called a Small Business Participating Debenture (SBPD) to provide a source of capital for small businesses.

MINORITY BUSINESS DEVELOPMENT

6. The President, by Executive Order, and Congress, by legislation, shall establish mandatory goals for all Federal procurements and Federal funds or grants to states, localities, and public private institutions, on a contract-by-contract or agency-wide basis for small businesses [35%]; minority-owned (Black, Hispanic, Native American, Asian Pacific American, and other racial minorities) businesses [15%]; and women in business [10%].

7. The President shall direct the Office of Management and Budget (OMB) to establish as part of the budget process, a formal reporting and goal setting system, requiring all departments and agencies to specify and separately make public the resources they plan to make available to small businesses, minority-owned (Black, Hispanic, Native American, Asian Pacific American, and other racial minorities) businesses, and women in

business. The departments and agencies shall also be mandated to publicly report the levels of attainment of these goals.

8. Congress and the Executive Branch shall ensure the effective implementation and enforcement of PL 95–507 by adopting the following changes/recommendations: (1) requiring the law or implementing regulations to provide that the prime contractor set forth a narrative description of the subcontract or sub-contract item; and (2) giving the Associate Administrator for Minority Business, within the SBA, the clear authority to enforce and monitor compliance with PL 95–507.

9. Congress shall (1) adopt a SBIC and MESBIC Investment Tax Credit Act to provide a 50-percent tax credit for corporations and individuals who invest in any issue of equity securities of SBICs and licensed MESBICs; and (2) authorize MESBICs to borrow long-term loans from the Federal Financing Bank at subsidized interest rates.

10. The President, by Executive Order, or Congress, by legislation, shall establish a National Minority Economic Commission to provide a centralized focus to the Federal effort to assist minority business enterprise. This Commission, a majority of which shall consist of non-government contractors, shall report directly to the President.

INNOVATION AND TECHNOLOGY

11. Support and urge passage of S. 1860, the Small Business Innovation Act of 1979, and companion bill H.R. 5607, as presently drafted with flexibility for minor future amendments, covering: small business research and development set-asides; small business innovation and research programs; patents; amendments to the Internal Revenue Code; and regulatory flexibility.

12. Existing Federal research and development procurement, assistance, and tax laws and policies must be modified and new laws enacted to: (1) eliminate unfair advantages enjoyed by governmental agencies, nonprofit organizations and educational institutions which compete with innovative small business in providing goods and services and, (2) mandate statutorily a national policy of reliance on small business, (3) prevent the Federal government from disseminating proprietary information, (4) prevent the Federal government, through the use of its own personnel including Federal Research Centers, from competing with small business.

13. Increase the amount of Federal research and development prime contracts awarded through small business set-asides by one percent per year of each agency's research and development budget, until the dollar value of the set-asides reaches at least ten percent of that agency's total annual research and development budget.

14. Clarify the "prudent man rule" to broaden it and insure that securities of small insurers are not excluded from those securities eligible for purchase by funds subject to ERISA, and exempt those securities from planned asset regulation issued by the Department of Labor.

15. Institute specialized capital gains treatment for generative capital invested in technology based firms starting with 25 percent in the first year, decreasing by 5 percent per year to zero after five years and, further, defer taxation on such gains whenever the proceeds from sale of investments is reinvested into a small business within the next twelve months.

INFLATION

16. Balance the Federal Budget by statue in Fiscal Year 1981 by limiting total Federal spending to a percentage of the GNP, commencing with 20 percent and declining to 15 percent.

17. Reform the Social Security System by including, where constitutionally possible, all public and private sector employees as contributors and more closely tie benefits to contributors to move the system toward actuarial soundness. Limit benefits to the original old-age and survivors benefits. Freeze the tax base and tax rate at the January 1980 level. Eliminate double dipping.

18. Revise minimum wage standards by freezing standards at January, 1980 levels and establishing a two-tier minimum wage by exempting teenagers, seasonal workers and part-time workers.

19. Repeal the Davis-Bacon Act.

20. Provide greater incentives for savings and investment by eliminating income tax on investments and interest income up to $10,000.

VETERANS

21. The President shall issue an executive order providing for the full and effective implementation of the provisions of the Small Business Act providing for "special consideration" for veterans; to assist in carrying out the veterans "special consideration" provisions such executive order shall establish within the Small Business Administration an internal Veterans' Business Committee, the majority of whose members shall be veterans and whose purpose shall be to advise and assist the SBA in the development and implementation of programs and the formulation of policies necessary and appropriate to carry out the veterans' "special consideration" provisions of the Small Business Act.

Such executive order shall require all appropriate agencies and departments of the Federal Government which engage in business assistance activities, such as procurement authority, to provide "special consideration" to veterans.

22. The President should establish an Interagency Committee on veterans in business.

23. 15 percent of all Federal Procurement contracts and 15 percent of all SBA Direct and Guaranteed Loan Program Funds shall be set aside for veteran applicants.

24. All legislation or regulations affording special treatment for women, minorities, and socially and economically disadvantaged or other special groups, should be amended to also provide priority for qualified veterans, including disabled veterans.

25. SBA regulations shall include disabled and/or Vietnam veterans in their definition of "socially and economically disadvantaged."

FEDERAL PROCUREMENT

26. The Federal Government shall be required by statute to contract out to small business those supplies and services that the private sector can provide. The government should not compete with the private sector by accomplishing these efforts with its own or non-profit personnel and facilities. Small business generally—50 percent which shall include the following: minority-owned businesses 15 percent, businesses owned by women 10 percent.

27. Procurement agencies should break down large requirements (including those for research and development) into smaller parts where feasible to permit solicitation from, and award to, small businesses.

28. The Federal Government should contract out supplies and services to private industry (particularly small and minority business) and should not compete with the private sector either through the use of its own personnel or through non-profit organizations such as the Federal Research Centers, educational institutions or other nonprofit entities.

29. The Office of Federal Procurement Policy should develop a new set of procurement regulations applicable to procurements under a special amount from all businesses. This "second-tier" regulation should eliminate clauses, procedures, reporting requirements, etc., applicable to large systems procurement which are currently imposed on small businesses, as well; and to the extent possible, apply to subcontracts with small businesses.

30. Congress should adopt legislation establishing separate mandatory goals for all federal procurements and federal funds or grants to states, localities, and public and private institutions on a contract by contract basis or agency-wide basis for small business [35 percent], minority-owned businesses [15 percent], and women in business [10 percent].

ENERGY

31. The Federal Government should open public lands to energy exploration and production under regulations which provide reasonable environmental protection with: (a) a 30 percent small business set-aside; (b) fixed time limits for statutory environmental analysis; and (c) a 5-year limit on lease terms to encourage rapid development.

32. Government must use any new tax income from energy production and development for the future production and development of energy in the private sector, until the U.S. is energy self-sufficient. Small business should have tax exemptions and appropriate set-asides.

33. The U.S. Government shall encourage the immediate expansion of nuclear and coal-powered electric generating capacity. Research efforts directed toward power technology should be expanded.

34. Congress should encourage substantial direct and investment tax credits for the implementation of all forms of conservation and alternative energy. Additionally, investments of up to $150,000 per year should be expensed.

35. Action should be taken to immediately remove price and allocation controls on crude oil and all petroleum products.

WOMEN IN BUSINESS

36. Private lending institutions should be required to provide equal access to commercial credit for women in business. The Federal Reserve Board should establish record keeping requirements for commercial loans to women which will permit effective monitoring of performance under the Equal Credit Opportunity Act. The Small Business Administration should make bank certification available to as many commercial banks and other lenders as possible and establish targets for increasing the dollar volume of loans made to minority-owned and women-owned businesses, as one of the criteria for recertification.

37. The President should initiate by Executive Order and Congress should enact legislation establishing mandatory goals and reporting requirements for all Federal procurements and procurements resulting from Federal funds and grants to states, localities and public and private institutions for small businesses on the basis of 50 percent for small businesses. The 50 percent shall be distributed so that 15 percent of all procurements shall be targeted for businesses owned by socially and economically disadvantaged persons, and 10 percent of all procurement shall be targeted for women-owned businesses as defined in Executive Order 12138. And, further, that Congress should amend the Small Business Act to provide incentives to Federal prime contractors for subcontracting with women-owned businesses; provided however, that such an act does not include women-owned businesses as a category or class of socially and economically disadvantaged small business.

38. The Small Business Administration should identify existing public and private management training programs, evaluate their effectiveness for women entrepreneurs and increase funding to those found to be effective.

39. Evaluate all Federal government employees in positions which impact on women and minorities, particularly loan officers, pro-

curement officers and management assistance officers, in part on the basis of their performance on behalf of women and minorities.

40. The Small Business Administration shall establish a bonding program that permits the waiver of bonding requirements for Federal contractors who are small business owners. This program shall be available to all small business owners who have been: (1) unable to obtain bonding from any other source, and (2) certified as competent by the SBA.

GOVERNMENT REGULATIONS AND PAPERWORK

41. Congress should exercise its oversight function with the assistance of the General Accounting Office, instituting sunset reviews of all laws, regulations, and agencies, to ensure that none exceeds original congressional intent. Sunset reviews, in an appropriate time frame (not less than every five years) should include economic impact analysis and proposed agency budget reductions, leading to reenactment of each agency's enabling legislation to permit its continued existence, or to reduce its size and cost.

(a) Establish a Regulatory Review Board composed of representatives from the Executive Branch, Congress and small business owners, with responsibility for impact statements and cost controls.

(b) Congress shall exercise line-item veto over regulations within a specified time through congressional oversight committees, with one-house floor vote.

42. Small business should be eligible for magistrate review of agency civil penalties, and reimbursed for court costs, reasonable attorney's fees, and damages from administrative action, if successful in civil disputes with the Federal Government, including IRS.

(a) Such costs and fees to come from the operating budget of the agency.

(b) Magistrates will be appointed and be responsible to the judges in each Federal Judicial District.

(c) With burden of proof on the agency to defend its action.

43. The Office of Management and Budget should be designated the lead agency for both Federal regulations and paperwork of all agencies and programs (specifically including IRS), with responsibility for forms clearance, paperwork reduction, simplification and elimination; coordinating regulations and cost control oversight; requiring agencies to submit to OMB an economic analysis measuring administrative and compliance costs, particularly for small business, of all proposed regulations and paperwork.

44. All Federal agencies should have the power to implement a tiered system of regulation. This should include the power to minimize and exempt small business from various regulations and reporting requirements as well. All new regulations should be designed to take into account the size and nature of the regulated business. All present regulations should be reviewed to see if they are still required.

45. When developing rules, forms and guidelines, regulatory agencies must consult with small business representatives from affected industries and advocates assigned to each agency.

(a) Consult SBA Office of Advocacy and small business trade associations who should be given sufficient authority and time (90–180 days prior to publication of notice of proposed rule-making) to influence regulators if a proposed rule and/or form would have an impact on small business.

(b) Such proposed rules should reflect less formal administrative procedures for small business.

(c) Agencies make available timely information and assistance, within 30 days in writing.

ECONOMIC POLICY AND GOVERNMENT PROGRAMS

46. Require that all government agencies which develop fiscal, monetary, legislative and regulatory policies/practices shall submit small business "economic impact" statements that require the regulatory agencies to identify the anticipated benefits and to justify the costs of Federal regulatory requirements to small business. In addition, all regulatory policies shall be subject to sunset provisions to be reviewed every 5 years in order to insure that only cost effective regulations shall be maintained and retained in the future.

47. The Office of Advocacy must be maintained, reinforced and expanded so that activity be not less than 5 percent of the SBA salary and expense budget. The legislative mission of Advocacy must be considered the number one priority of SBA and the Office of Advocacy. The independence of that function of the Office of Advocacy must be protected so that it may continue to have the confidence of the small business community. SBA's Advocacy budget should be devoted to economic research and analysis, as well as, small business advocacy. Small business advocates, under the direct supervision of the SBA Office of Advocacy, shall be assigned to OMB, Federal Reserve Board, Treasury, International Trade Policy Committee and other regulatory agencies.

48. The merger and acquisition anti-trust laws should be amended to: (1) inhibit monopoly and conglomerate growth of giant companies, provided safeguards are built in to protect the needs of small business, (2) prohibit dual distribution that adversely affects wholesalers, distributors, dealers, retailers, and franchises; and (3) prevent the termination or nonrenewal of wholesalers, distributors, dealers, retailers and franchises without good legal cause.

49. The SBA should be directed to implement the following changes:

A. The duties of the Administrator of the SBA shall include the additional function of chairing a new group, within the Executive Branch, to be known as the "Economic Policy Planning Committee for Small Business" to advise the President of small business matters. The new committee shall consist of the following: high level representatives of the Departments of Commerce, Treasury, and Council of Economic Advisers.

B. The SBA Bank Certification program should be expanded so that the SBA can devote more of its resources in terms of personnel and funding to small business advocacy.

C. The Office of Advocacy must be maintained, reinforced and expanded so that activity be not less than 5 percent of the SBA salary and expense budget.

50. Small business representation in economic and regulatory decision-making should be increased. This should include, but not be restricted to the following steps by the President:

(1) Seek the Counsel of the SBA Administrator and representative small business executives in developing policy.

(2) Appoint a small business executive as a senior advisor on the White House Domestic Policy Staff.

(3) Direct that small business advocates be assigned to the OMB, FRB, Treasury Department and regulatory agencies, under general guidelines from the Office of Advocacy at the SBA.

(4) Appoint small business persons to all national boards, commissions and advisory committees whose work impacts on small business.

INTERNATIONAL TRADE

51. Congress should broaden the tax deferral options of the Domestic International Sales Corporation and provide for the development of an American Trading Company which would automatically qualify as a DISC. Tax deferral options should include the following additional provisions for DISSs: 1) allow for deduction of twice the monies expended for participating in any bona fide overseas trade fair by a DISC; 2) allow for the deduction of twice the amount of premiums paid to Eximbank and FCIA, as legal deductions prior to payment of DISC taxes; 3) increase the $100,000 exemption clause to $500,000; 4) provide for a graduated tax on "deemed distribution" from $500,000 for $50 million, and a standard rate of 50 percent levied on over $50 million; 5) exempt new DISSs from any "deemed distribution" requirement for at least the first three years of operation; and, 6) provide for the elimination of existing incremental provision of DISC regulations. Congress should provide within the tax structure an "Exporter's Allowance" or tax deduction which would apply in the trade of all goods abroad by granting an allowance for 75 percent of the marketing expenditures incurred by the exporter.

52. Eximbank should establish a special small business founding program through commercial banks, and should consider discounting loans to support international sales and should develop a cooperative program with the SBA for pre-export financing.

53. The Federal government should establish field one-stop service shops to include export services of all Federal agencies under the guidance of the Department of Commerce.

54. The President and Congress should consolidate under an existing cabinet level department, a unified world trade administration. It would be responsible for all trade policy functions of the various agencies and departments. Its objective would be to maximize the international competitive strengths of U.S. Small Business with support and goals for minority, women-owned and disadvantaged business and specific programs developed to utilize their units of, technological, educational, cultural, language and political expertise.

55. Congress should provide for support and expand the use of all officially recognized Trade Fairs, Exhibits, and Trade Centers abroad with small business participation; continue to encourage the Department of Commerce to increase the promotion of foreign buyer and foreign visitor travel to the United States; and develop a program utilizing the cultural, language and political expertise of all Americans, especially ethnic groups, to assist in preparing, implementing and utilizing a sales package for use in expanding International Trade in all world markets.

EDUCATION, TRAINING AND ASSISTANCE

56. A Small Business Educational Task Force for entrepreneurial educational training shall be appointed by the President and coordinated by the Office of Advocacy. Task Force members shall come primarily from small business to initiate, promote, and develop the incentives for demographically, projectionable, formal, business planning and case history-type continuing education and public awareness (through all media) in small business.

57. The Small Business Administration's management assistance programs should be strengthened and expanded by allocating a greater portion of the Agency's total resources to reflect an increased emphasis on management assistance rather than the traditional emphasis on financial assistance.

58. A National Policy should be established for the support of entrepreneurial education and training, continuing education and management assistance, provided by the public and private sector, as an opportunity for every American who wishes to own his or her small business.

59. Establish "One-Stop Shops" under the coordination of SBA for small business assistance programs utilizing effective information systems and management assistance programs to serve the small business community of the local level, with primary im-

plementation occurring through the private business sector, existing agencies and existing organizations.

60. Congress should enact legislation that would provide tax credits or other tax incentives for:

A. Expenses incurred to educate small business owners and operators regarding the management of business; and

B. Expenses incurred to conduct continuing education and training and to provide on-the-job entrepreneurship experience.

EXHIBIT II

MEMORANDUM TO PRESIDENT JIMMY CARTER

DECEMBER 5, 1976.

Memorandum re White House Conference on Small Business.

From the Senate Select Committee on Small Business.

The recognition which the Carter/Mondale campaign accorded small business owners—in the 1976 Democratic Platform, in statements to such groups as the National Small Business Association, and in speeches in Alabama and Ohio pledging that the growth rate of small business would exceed the growth rate of big business and big government—should certainly be encouraging to this group which has suffered from neglect of their legitimate concerns.

Tabulations by the Small Business Administration and others further document the importance of small business to the economy. SBA attributes 52 percent of all private employment, 43 percent of business output, and one-third of GNP to the more than 97 percent of all U.S. enterprises defined as "small business." Commerce Department studies further indicate that more than half of all innovations and inventories originate in this sector, with obvious benefits domestically and in the balance of payments.

The Committee's own studies point out the sensitive relationship between labor-intensive smaller concerns and employment, and led to the conclusion that between one-half and one million jobs were saved last year as a direct result of temporary tax relief accorded to smaller and medium-sized firms in the 1975 anti-recession tax legislation.

Because of the central nature of the economic issues which have been stressed, and the close relationship of small business to them, the Senate Small Business Committee would recommend that, during the early months of the new Administration, there be convened a White House Conference on Small Business.

The last such conference was held in 1956, 20 years ago. Its staff director was Arthur Burns. Two reports were issued, which set the stage for enactment in 1958 of the Small Business Investment Act and the Small Business Tax Act.

Some of the matters that might be involved in such a conference would be: (1) appropriate yardsticks for measuring the status of small business; (2) data-gathering techniques which would reduce federal paperwork and would still make such measurement possible; (3) tax policy; (4) regulatory policy; (5) reporting and compliance burdens arising out of federal legislation; (6) financing; (7) competition policy; (8) procurement, management, and technical assistance and other programs of the Small Business Administration; (9) the role of small business in energy policy; and (10) adequate representation for smaller business in agency decisions on economic policy, regulations, forms, and technical matters. Emphasis might be placed upon identifying such policies which would be both helpful to new, small and family businesses and also which would be realistic of attainment.

It is an accepted fact that the Senate Small Business Committee led the efforts which resulted in increasing the proportion of the 1975 emergency tax cut going to small business from the proposed 25 percent to 37½ percent, in enacting the first thorough revision of the estate and gift tax laws since 1942, and in the establishment of a Small Business Advisory Committee to the Internal Revenue Service.

This Committee also urged that the 1975 rate reductions of 9 percent for small companies and 40 percent for medium-sized independents be made permanent. This would maintain the 1975–77 three-step graduation in corporate rates created by the Tax Reduction Act of 1975, in accordance with President-elect Carter's statement in Cleveland that he is in favor of a graduated corporate income tax but the present system appears to work in reverse, with the small companies paying at higher rates than the large corporations.

At the Senate Small Business Committee's request, the Treasury Department is performing a detailed study which should further confirm differentials in effective tax rates according to size.

This Committee has also offered legislation to provide "fair representation" for small business in advisory committees (S. 3085), to designate a small business contact at each agency (S. J. Res. 177), to upgrade attention to small business matters at the Federal Reserve (S. Res. 308), to enhance small business opportunities to perform energy research (S. 2845), and a number of proposals which would utilize tax credits to reduce the impact of payroll taxes and thus increase employment.

Specific proposals of this kind are available, among many others, for consideration.

The Democratic Platform restated the belief in a healthy small business community as "a pre-requisite for increasing competition and a thriving national economy."

A small business conference could serve to follow through on the new Administration's concern for small business as a vital part of our economy and society. It could become a workshop for greater participation by small business people in the task of formulating economic policy, and would highlight the importance of this area to the general public.

If there is agreement on the value of such a conference and one is convened, the Committee would be pleased to cooperate in every way possible toward its accomplishment.

EXHIBIT III

S. RES. 105

Whereas the United States of America is entering on a crucial period of economic rebuilding;

Whereas such rebuilding can only be accomplished by a revitalization of the Nation's small business community;

Whereas small business provides 52 per centum of all the non-government employment in the United States;

Whereas small business provides 48 per centum of business output;

Whereas 43 per centum of the gross national product of the United States is produced by small business;

Whereas 97 per centum of all United States enterprises are defined as small business;

Whereas significant innovative and technological developments frequently originate in the small business community; and

Whereas the Senate Small Business Committee has actively recommended better development of the Nation's small business community to reduce unemployment, increase production, and provide for the future: Now, therefore, be it

Resolved, That it is the sense of the Senate of the United States that the President of the United States convene a White House Conference on Small Business with the help of the Senate Small Business Committee to develop specific and comprehensive recommendations to increase public awareness of the importance of small business; to identify the problems of new, small, and independent business enterprise; and to suggest legislative, executive, administrative, and other appropriate governmental actions for encouraging and maintaining the economic interests and potentials of the American small business community in order to strengthen the overall economy of the Nation.

SEC. 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to the President of the United States.

EXHIBIT IV

PROGRESS REPORT

Despite the outstanding contributions of small business to American economy and society, several decades of neglect had left the small business community in this country on the critical list by the mid-1970's. In the past four years, the Senate Small Business Committee has made progress in changing this situation.

During the years 1975 through 1978, the Committee's activities resulted in major small business tax reforms, reduced paperwork, pension simplification, assistance for family farmers, and closer supervision over the Small Business Administration. Attention to small business in government, in the nation's press and academic institutions has been heightened, leading to the forthcoming White House Conference on Small Business.

This report capsulizes these developments and accomplishments:

The White House Conference on Small Business. As a culmination of this four years of activity, President Carter, Small Business Administrator A. Vernon Weaver, and Senator Gaylord Nelson last April announced the nation's first White House Conference on Small Business, to be held in Washington, D.C., in January, 1980. It is to be preceded by 12 regional and 45 state meetings, which are now underway. The aims are to carefully delineate the problems of small business and develop an agenda for action over the next 25 years to restore a climate in which small business can be born, grow, and thrive. The 14 million small enterprises in the U.S. account for 55 percent of the private sector jobs, 48 percent of business output, 43 percent of the GNP, and more than 50 percent of all industrial innovations in this century. Given fair treatment, they can make vital contributions to the country's most valued goals.

Breakthroughs in Tax Reform for Small Business. In the four years 1975–78, Congress restructured the corporate income tax to subject all earnings under $100,000 to a progressive and significantly lower level of tax. Savings range from almost one-quarter for the smallest firms earning less than $25,000 to almost one half for those earning between $25,000 and $50,000, as shown in the table below.

Overall, the 94 percent of U.S. companies earning less than $100,000 will save $2 billion in federal taxes in 1979 and $2.2 billion in 1980 as a result of this legislation:

SMALL BUSINESS TAX SAVINGS, 1975–79

Corporate income	Amount saved	Percentage reduction	Total saved in 1979 (millions)
$25,000	$1,250	23	$371
$50,000	8,250	47	616
$75,000	12,750	43	592
$100,000	14,750	36	449
Total			2,028

Public hearings in 1975 resulted in a thorough reform of federal estate and gift tax laws, including: an increase of the "marital deduction" available to surviving spouses to $250,000; tripling of the amount of property exempt from estate tax to $175,000; tripling the gift exemption to $100,000; and providing 15 years for payment of estate taxes attributable to farms or small businesses.

A 1978 Committee investigation on capital formation brought a deep reduction of the maximum tax rate on capital gains—from 49.1 percent to 28 percent—a cut of 43 percent. The Nelson proposal enacted by Congress will exclude 60 percent of capital gains from taxation (compared to the previous 50 percent). This has already led to an increased flow of venture capital to new and small enterprises. In addition:

Subchapter-S of the Internal Revenue Code (used by 300,000 closely-held businesses) was substantially revised and liberalized, increasing the maximum number of shareholders from 10 to 15.

The Investment Tax Credit was increased 43 percent for all business (from 7 percent to 10 percent) but 185 percent for small firms buying used machinery, because the amount of used machinery eligible for the investment credit was doubled ($50,000 to $100,000).

The excise tax was graduated for small brewers, saving 35 small breweries $2 per barrel on their first 60,000 barrels of production, or a total of $4.2 million a year.

A Small Business Advisory Committee was formally established at the Treasury Department at the Commitee's request.

A sweeping small business depreciation reform bill developed over the past four years almost passed Congress in 1978. This proposal (S. 110) offers massive simplification, eliminating 100 pages of regulations for the 80 percent of U.S. businesses purchasing less than $25,000 per year in equipment, along with an additional $1.5 billion of capital formation for these companies. It passed the Senate in 1978, but was eliminated from the tax bill in the closing moments of the 95th Congress.

Reduction of Government Paperwork. The first success was creation of a Federal Paperwork Commission which, in turn, conducted a two-year study of paperwork problems. At the end of 1978, 151 of the Commission's 520 recommendations for paperwork reduction had been acted upon; eliminating 400 federal reports.

Another committee bill consolidated into a single annual filing the form 941 on which each of the nation's 4½ million employers must list the name of every employee. Beginning in 1978, this law eliminated a stack of paper more than two miles high every year.

In 1976, the Committee got the Labor Department to drastically reduce the new ERISA pension form (EBS–1) from 16 to 5½ pages. Cutting 10½ pages for each of the nation's 710,000 retirement plans reduced paperwork by 7½ million pages.

An amendment to the 1977 Minimum Wage bill reduced 12 pages of applications and instructions on hiring part-time students to a single postcard. This resulted in an increase in more than 5,000 part-time jobs the following year from businesses newly willing to apply.

In 1979, the Committee Chairman introduced a comprehensive bill to require the Federal Government to cut paperwork 25 percent within two years, or to explain to the Congress why it cannot be done. (S. 259)

Beginning the process of reducing governmental regulation. Committee studies demonstrated the cost of governmental regulation, and showed that regulations have been a greater source of increased housing costs than labor and materials. As a result, the median price of homes is now more than $50,000, out of range for three-quarters of all U.S. families.

Senator Nelson's "Regulatory Flexibility Act", calling for "two-tier regulation" passed the Senate in 1978 but was not enacted. It would distinguish between large companies that can bear the costs of sophisticated regulations and small firms which cannot, (S. 299)

Another bill, the "Regulatory Procedures and Improvements Act of 1979" (S. 93) would require government to state the cost of regulations and justify the benefits in each instance. Both bills are pending in the current 96th Congress.

Simplification of pension reporting and compliance. The Committee held the first congressional hearings highlighting the adverse effects of the Pension Reform Act of 1974 (ERISA) on the more than 90 percent of U.S. pension plans sponsored by small businesses. It found that, because of ERISA, the ratio of retirement plan creations to terminations fell from about 14–1 in the five years prior to the law to 3.6 and 1.5 to 1 respectively in 1975 and 1976. Almost 25,000 pension plans closed down in those two years. As a result of these hearings:

The Labor Department reduced the EBS–1 form from 16 to 5½ pages (1975);

The Labor Department and the Internal Revenue Service agreed to limit themselves to a single annual report (1977);

The Administration simplified reporting to plan participants and beneficiaries (Reorganization Message, 1978);

The Labor Department modified the "prudent man" regulations to facilitate investment in small business (April 26, 1978).

Improving capital formation for small business. In 1978, the Committee began the most concerted congressional investigation of credit and capital needs of small business of the past twenty years.

The initial hearings at the American Stock Exchange in New York and elsewhere laid the basis for approval of Senator Nelson's proposal to cut capital gains taxes from 49.1 percent to 28 percent. The hearings are continuing in 1979.

Requiring a fair share of Government contracts for small business. The Committee has consistently pushed for a greater proportion of government contracts of all kinds to be opened to cost-competitive small firms. For example, in research and development, small business has a brilliant record of producing half of all the country's innovation, but it receives only 3.4 percent of federal research contracts.

In 1978, the Committee developed the most comprehensive legislation for small contractors of the past 20 years and gained its enactment as Public Law 95–507. The new law requires Federal agencies to establish specific goals for small business contracts, and the appointment of a responsible official at each agency to assist small firms in obtaining this business. Additionally, every large prime contractor must now have a formal subcontracting procedure on each contract.

Another Committee report (S. Rept. 1413) recommended that the Executive Branch lay down targets for small business R & D procurement that could mean an extra $2 billion for small firms.

Imposing a tighter rein on the Small Business Administration. In 1978, the Committee developed legislation which would: 1) tighten controls over the SBA through Congressional review of the Agency's budget; 2) strengthen the agency's advocacy program; 3) increase the number of Small Business Development Centers in universities throughout the country to render services similar to the Agricultural Extension Service; 4) create a small business "data base" to improve the quality of small business research; 5) provide for a national small business economic policy mechanism; 6) increase support for venture capital investment; and 7) provide adequate funds for the White House Conference. This bill passed both the Houses of Congress but was not signed by the President. It has been modified and reintroduced in 1979, and has been reported to the Senate as S. 918.

Helping the family farm survive. The Committee legislated an extension of Small Business Administration programs to family farmers. Another initiative was the investigation of the 160-acre size limitation on farms receiving Federal water. A bill has been introduced to assure this land remains in family farm ownership.

Initial steps toward product liability relief. Committee hearings revealed that some businesses experienced premium increases for liability insurance of up to 1,000 percent, and others could not obtain such insurance at any price. A Nelson-Culver bill enacted as part of the Revenue Act of 1978 provided for a 10-year carry-back of product liability losses and the lifting of the accumulated earnings penalty on after-tax product liability reserves.

Women in business. Committee conferences on the problems of women business owners in 1976 raised the visibility of this issue and led to a national program to promote and assist women owners of businesses.

Increased stature of small business in the Congress and the Nation. The Congressional Small Business Committees, particularly in the Senate, made great strides in the past four years. The Senate Committee was given legislative authority over all matters pertaining to the Small Business Administration, the Small Business Act, and the Small Business Investment Act. The Committee consults 200 business organizations in seeking to develop the most effective working agenda for the nation's small business community.●

● Mr. STEWART. Mr. President, I am proud to be a member of the Democratic Party's special Small Business Task Force, whose agenda for action we announce here today. Shortly after the historic White House Conference on Small Business, I urged the majority leader to create an appropriate vehicle to expedite consideration of the legislative priorities established at the conference. I commend the distinguished majority leader for setting up this task force. I think his actions clearly signal the commitment of the Democratic Party to small business, and the determination of the party's leadership to see that meaningful action is taken.

Under the able leadership of Senator NELSON, chairman of the task force, we have developed an agenda which I believe is responsive to the most pressing concerns of the small business community. I think we have something which the whole Democratic Party can rally behind. This agenda is meaningful without being overambitious. I am confident that with the active support of the administration, the Democratic leadership, and the members of the task force, we can accomplish final action on several items listed on the agenda during the current legislative session.

The agenda for action we unveil here today is yet another unanticipated but extremely welcome and timely outgrowth of the recent White House Conference on Small Business. This meeting of over 1,500 representatives of the small business community from around the country provided an excellent forum for a discussion and consensus on the most serious issues facing small business. Of

equal importance, it provided an opportunity for the small business community to organize itself into an effective political force. And, last but not least, it focused the attention of policymakers here in Washington and elsewhere on the needs and concerns of the small business community, as well as on its past, present, and future contributions to society as a whole.

Small business is the cornerstone of the American free enterprise system. Healthy competition to provide goods and services which meet human needs is the foundation upon which the American way of life has been built.

Today, the free enterprise is under siege, throttled by rigid and inflexible regulatory bureaucracies that impose almost unimaginable cost and paperwork burdens on small business. Equally disturbing is the no risk, no growth attitude which has contributed so much to the lamented decline in American productivity.

If we truly are to reinvigorate our stagnating economy, we must not put a leash on the very American ingenuity and enterprise which has enabled this Nation to attain a preeminent position in the world economy. And we must not choke off the capacity of the small businessman to obtain the working capital needed to maintain, modernize, and expand his business.

There are many low- and no-cost items on this agenda, some of which I am cosponsoring, which would facilitate small business access to capital. We must enact measures that will enable small businesses to retain more of their earnings, create incentives for equity investment in small business, and improve the general business climate. As a member of the Senate Banking Committee, I will be pushing for reforms in certain credit and security laws that would provide small business with better access to the capital markets.

There are many other important items on the small business agenda introduced today. I am particularly concerned with and will lend my full support to regulatory reform, export stimulus, and greater small business participation in Federal research and development and procurement contracts, especially in the energy field.

I also heartily endorse the No. 3 policy recommendation of the White House conference, balancing the Federal budget. Many of us are currently involved in the painful process of balancing the budget. Everyone will need to make sacrifices, and I know I stand on very safe ground when I say that the small business community is ready, willing, and anxious to accept its fair share of the burden.

Again, I commend the distinguished majority leader for convening this special task force. The small business community has spoken with a loud, clear, and remarkably unified voice on the issues. The time has now come for the Congress to act.●

SMALL BUSINESS AGENDA FOR 1980

Mr. ROBERT C. BYRD. Mr. President, I am most pleased to add my support to the recommendations which the Small Business Task Force and its able Chairman, Senator NELSON, are making to the Senate.

The Small Business Task Force, which convened last month, has done a superb job of developing an agenda which is ambitious, yet realistic.

The Democratic Party has a long history of commitment to small business. The agenda developed by our colleagues builds on the long tradition of Democratic small business initiatives in areas such as tax policy, capital formation, regulatory reform, paperwork, procurement, and patent policy.

Most of the items on the 1980 agenda grew out of the recommendations of the thousands of small business people who participated in the White House Conference on Small Business in January.

I am committed to this agenda. Together with the task force members, I shall endeavor to insure that these small business goals become a reality this year.

These are troubled economic times for small business. They are the first to feel the credit crunch; the first to be squeezed out of capital markets; the last able to withstand a sustained seige of high interest rates.

One of the commitments of the agenda balancing the Federal budget. Balancing the budget can bring some relief to this hard-pressed sector of the economy from the pressures of the current monetary policy. We are working to take the pressure of Federal borrowing off the credit markets so that interest rates can moderate. Nothing is more important to the viability of the small business sector, particularly those who are dependent on the housing and construction trades, than a moderation of interest rates.

Our agenda for 1980 should draw support from both sides of the aisle, from a broad cross-section of the political spectrum. I predict that, under the able leadership of Senator NELSON, small business will receive some good news from the Senate this year.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m. tomorrow morning.

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

EXTENSION OF REORGANIZATION AUTHORITY OF THE PRESIDENT UNDER CHAPTER 9 OF TITLE 5

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIBICOFF, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 6585 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. STEVENS. There is no objection.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6585) to extend the reorganization authority of the President under Chapter 9 of Title 5.

● Mr. RIBICOFF. Mr. President, I support H.R. 6585.

This one-line bill extends until April 6, 1981, the President's current authority to propose reorganization plans to Congress. It makes no other changes in the Reorganization Act. If the Senate did not act on the bill this week, the President's authority would lapse over the upcoming recess.

The President should have this authority in case relatively minor adjustments need to be made in the next 12 months in the way the Government is organized. I know that some Senators would be concerned about even this one year extension if the administration were to try to use it to propose such a major reorganization as a new Department of Natural Resources. The administration has said, however, that they have no intention to use the authority to establish a new Department of Natural Resources in the next year.

The past experience of the Governmental Affairs Committee suggests further study could lead to improvements in the way the act works. By limiting the extension to 1 year the Governmental Affairs Committee and the full Senate will have time to review fully the desirability of amending the act. During that time we can all consider what changes should be made in the law in order to define more precisely the exact scope of the President's authority, and to improve the procedures for congressional action on proposed reorganizations.

To assist the committee in this review, I intend to ask GAO to evaluate the way the current statute has operated, and to report to the committee before the authority expires.

In the meantime, I urge the Senate to approve H.R. 6585 without amendment.●

Mr. STEVENS. Mr. President, I wish to print in the RECORD a letter I received from the Executive Office of the President, the Office of Management and Budget.

When this matter was raised in the committee I inquired whether the extension of authority here, which will end on April 6, 1981—this is the extension of the President's reorganization authority—would be used in any way to bring about the reorganization plan that contemplated moving NOAA, the Forest Service, and other elements of the executive branch into a new Department of Natural Resources.

As is indicated by this letter from Mr. McIntyre, sent up in his behalf, in his conversations with Senator HOLLINGS and Senator TALMADGE and conversations I had with his office it has been stated to us categorically that the administration does not intend to use this authority to send up reorganization plans affecting the status of those agencies.

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

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

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 2, 1980.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: This is to confirm the statement of Jim McIntyre, Director of the Office of Management and Budget, in his conversations with Senators Hollings and Talmadge, that the Administration does not intend to send up reorganization plans affecting the status of NOAA, the U.S. Forest Service, or any of their elements, during the period of extension of reorganization authority ending April 6, 1981.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Mr. STEVENS. Mr. President, on the basis of this assurance about this extension authority, which does only go to April 6 of next year, I withdraw my objection to consideration of this matter at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alaska, the acting Republican leader, for his withdrawal of his objection. I appreciate his comments.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 6585) was passed.

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

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—S. 2245

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 684, S. 2245, the Motor Carrier Reform Act, is called up and made the pending business before the Senate, that there be a time agreement thereon as follows: Two hours on the bill equally divided between Mr. CANNON and Mr. PACKWOOD; 1 hour on the bill controlled by Mr. HOLLINGS; 30 minutes equally divided on any amendment; 1 hour equally divided on an amendment by Mr. HOLLINGS dealing with the exemption from Federal regulation of the transportation of food and agricultural supplies; 1 hour equally divided on an amendment by Mr. KENNEDY dealing with antitrust immunity; 30 minutes equally divided on an amendment by Mr. EXON dealing with mandatory insurance requirements for motor carriers; 1 hour equally divided on an amendment by Mr. SCHMITT dealing with services to small communities; 1 hour equally divided on an amendment by Mr. CANNON dealing with motor carrier transportation incidental to rail transportation; 1 hour equally divided on each of two amendments by Mr. STEVENSON in the first or second degree on the same subject as the amendment of Mr. CANNON; 1 hour equally divided on an amendment by Mr. MCCLURE dealing with the operation of triple combination truck trailers on the interstates; provided further, that there be a time limitation on any debatable motion or appeal or a point of order, if such is submitted to the Senate, of 20 minutes, and that the agreement otherwise be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, the reservation is for the purpose of advising the majority leader that the agreement as described by him has been cleared on this side and we have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished Republican leader.

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

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2245 (Order No. 684), a bill to amend title 49 of the U.S. Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes, debate on any amendment shall be limited to 30 minutes (except on a Hollings amendment on exempting from Federal regulation the transportation of food and agricultural supplies, on which there shall be 1 hour; a Kennedy amendment on antitrust immunity, on which there shall be 1 hour; an Exon amendment on mandatory insurance requirements for motor carriers, on which there shall be 30 minutes; a Schmitt amendment on services to small communities, on which there shall be 1 hour; a Cannon amendment on motor carrier transportation incidental to rail transportation, on which there shall be 1 hour; two Stevenson amendments in the first or second degree on motor carrier transportation incidental to rail transportation, on each of which there shall be 1 hour; and a McClure amendment on trucking combination on the interstates, on which there shall be 1 hour), to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, that no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. Cannon), the Senator from Oregon (Mr. Packwood), and the Senator from South Carolina (Mr. Hollings): *Provided*, That the said Senators, or any one of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 2245 OR S. 414

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recess and upon the disposition of the First Concurrent Budget Resolution, the Senate then proceed to the consideration of either Calendar Order No. 684 on the regulation of trucking or Calendar Order No. 515, on which some work has already been done but which has not been completed, and that the majority leader be authorized to decide, after consulting with the distinguished Republican leader.

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

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until tomorrow morning at 10:30 a.m.

The motion was agreed to; and at 4:59 p.m., the Senate recessed until Thursday, April 3, 1980, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 2, 1980:

THE JUDICIARY

Samuel James Ervin, III, of North Carolina, to be U.S. circuit judge for the fourth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

William Cameron Canby, Jr., of Arizona, to be U.S. circuit judge for the ninth circuit vice Ozell M. Trask, retired.

Charles L. Hardy, of Arizona, to be U.S. district judge for the district of Arizona, vice Walter E. Craig, retired.

Milton Irving Shadur, of Illinois, to be U.S. district judge for the northern district of Illinois, vice Hubert L. Will, retired.

Frank J. Polozola, of Louisiana, to be U.S. district judge for the middle district of Louisiana, vice Elmer Gordon West, retired.

Clyde S. Cahill, Jr., of Missouri, to be U.S. district judge for the eastern district of Missouri, vice James H. Meredith, retired.

IN THE COAST GUARD

The following-named Reserve officers of the Coast Guard to be permanent commissioned officers in the grades indicated:

Lieutenant commanders

David K. Arnold
Kenneth E. Gray

Lieutenants

Michael L. Beatty	Lane I. McClelland
James E. Begley	Max R. Miller, Jr.
William S. Chubb	William R. Miller
James J. D'Allesandro	Theron A. Patrick
Edward M. Fiegel	Tommy G. Perkins
Cheryl L. Gaebel	Keith L. Randall
Donald W. Gold	Stephen C. Rapalus
John H. Harper, Jr.	Billy R. Slack
Clyde M. Henkel	Louis S. Stanton
Ronald R. Korenek	Joseph A. Steen
Christopher L. Lee	Paul D. Thomas
Dennis M. Maguire	

Lieutenants (junior grade)

Paul J. Bergman	James G. McKnight
Richard A. Blais	Randolph Meade, III
William P. Cummins	Douglas Mihalik
Charles J. Dickens	Harry B. Milford
David H. Dickey	Ronald J. Morris
Lee W. Ellwein	Susan G. Moritz
Clayton W. Evans	Terrance Mulligan
Ernest J. Fink	Kevin C. Myers
Stanley W. Harris	Norman T. Ohr, Jr.
Phillip L. Hawkins	Scott J. Olin
Claude H. Hessel	James G. Parker
Jody A. Hinchion	Wayne M. Patrick
Jack L. Hirsch, Jr.	Raymond A. Pelletier
Richard H. Holzshu	James A. Peoples, Jr.
Joseph M. Hunt	Victor M. Pounds, Jr.
Gerald T. Huser	James E. Quarles
Robert F. Lavender	Howard P. Rhoades
Theodore C. Lefeuvre	Harley L. Rhodes
Andrew J. Matta	Van M. Richardson, Jr.
Maureen T. McBride	Donald W. Rigney
Edward J. McCauley	Edward L. Ristaino

Ernest P. Rivas
Michael D. Russell
Ronald L. Rutledge
Donald A. Salamone
Robert L. Sainlar
Charles M. Shirk
John H. Siemens
Peter C. Smith
Theodore H. Smith
Christopher J. Snyder
James E. Stinson
Rex M. Takahashi
Russell N. Terrell
Edward J. Toscano
Ronald L. Walters
Lawrence T. Yarbrough
John W. Zoch

Chief warrant officer (W–3)

Michael A. Shafer

The following graduates of the Coast Guard Academy to be permanent commissioned officers in the Coast Guard in the grade of ensign:

Lyle Y. Fleck
William Charles Floyd
Roderick E. Walker

The following-named officers of the Coast Guard Reserve for promotion to the grade of captain:

Richard W. Doherty
Lawrence C. Foley
Charles L. Hayes, Jr.

The following-named officers of the Coast Guard Reserve for promotion to the grade of commander:

John C. Griggs
Robert L. Pritchard
James J. McCartin, Jr.

The following-named officer of the permanent commissioned teaching staff of the Coast Guard Academy for promotion to the grade of captain:

Bruce C. Skinner

IN THE NAVY

The following temporary lieutenant commanders of the U.S. Navy for permanent promotion to that grade, pursuant to title 10, United States Code, sections 5782 and 5791.

SUPPLY CORPS

Allega, Timothy James
Allen, Daniel William, Jr.
Allen, Dennis Jean
Atkins, John Wesley, III
Barnes, Frank
Barnett, Orlando Tyrone
Battersby, Richard Wayne
Baum, Christopher Charles
Beamer, George Patrick
Benbow, Robert Thomas
Biel, Jeffrey Donald
Biggs, Edmund Logan
Black, John Floyd, Jr.
Brady, Richard Lee
Brown, William Timothy
Carstanjen, Jan Hendrik
Carstens, Delbert Kenyard
Chamberlain, Edward Robert
Clements, Charles Cecil, III
Coffin, Charles Edward, III
Cohan, Lawrence Louis
Collette, Robert Lloyd
Collins, Ralph, Jr.
Conradt-Eberlin, Viggo Paul
Cottrell, Michael Francis
Crognale, Stanley Joseph, Jr.
Culver, Kenneth Duane
Deck, Robert Lee
Dexter, Stephen Thompson
Diaz, Adalberto Miguel
Doubleday, Ross Justin
Earlston, Robert Paul
Edgerton, Donald Kenneth
Evans, Neale William
Flakes, Donald Lewis
Fronabarger, Jerry Lloyd
Gardner, Everette Shaw, Jr.
Garner, Darrell William
Garrett, George William
Gibson, John Justin
Gonzales, Virgilio Garcia
Griggs, Thomas George, III
Grove, William Earle
Gustavus, Robert Lynn
Haddock, Ira Frederick, Jr.
Hall, Robert Leo
Hallenbeck, Gerald Thomas
Hanson, Maurice Dale
Harris, Timothy Leon
Haugen, Steven Carl
Hawkins, Joe Crane
Hendricks, Ross Franklin
Holley, Dewey Arnold
Hoyt, Charles Arny, III
Humes, Larry Frank
Ireland, Dennis Wayne
Janssen, Clark John
Jaudon, James Elton, III
Jenkins, Evan Richard
Jennings, Jay Jeffrey
Jepson, Francis Edward, Jr.
Jones, James William
Jordan, Robert Richard
Joshua, Edward Raymond, III
Kamel, Mohsen
Keller, Frank Boyd
Kellum, William Carlisle
Kern, Samuel Yeager
Kinsey, Joseph William
Kirtley, Richard Wayne
Kowalski, Fred Walter
Krisman, Dennis William
Kurz, Robert Raynor
Leenstra, Richard Byron
Libby, Kurt William
Lippert, Richard Alan
Lord, Clifford Carol
Lovejoy, Leonard Norman
Luring, Gregory Bates
Lynn, Gary Dexter
Major, Samuel James, Jr.
Marx, Paul Thomas
McCurdy, Jeffrey Horace
McInnis, Roger Eugene
McMeans, Edwin Walter
McQuinn, Dale Eugene
Mills, Kenneth Brewster
Monahan, David Wilson
Moore, Beryl Grant, II
Moore, Richard Snowden, Jr.
Nelson, Thomas Russell
Nordwall, Marvin Raymond
Ott, Gene Franklin
Parks, Michael Blake
Perkins, Robert Morris
Perry, William Kurtz, Jr.
Peters, Charles Allan
Pollock, William Jay
Printz, Stephen Carl
Quigley, Robert Michael, Jr.
Quirk, David John
Ramelli, Daniel Steven, III
Ray, Larry Clay
Robuck, Charles Henry
Scarola, Joseph Ralph
Schechter, Kenneth Alan
Schlegel, Merrill Edward, II
Scudi, John Turner
Sever, Donald Edwin, Jr.
Shaw, Mark Charles
Sheppard, James Michael
Smith, Jay Schuyler
Smith, Rene Allen
Soares, Leonard Joseph
Souza, John Edward
Spradlin, Willie Lee
Sullivan, Michael Patrick
Tabb, Donald Cameron, Jr.
Thompson, Ronald Harris
Thomson, James Edward
Thurlow, Robert Sheridan
Townsend, David Alvin
Townsend, Richard Harding
Ulrich, James Marshall
Utter, James Henry
Vaughan, Larry Edward
Velte, Duane Robert
Williams, Edward Leo, III
Williams, Fred Alan
Wilson, Richard Davis
Wise, William Allen, III

CHAPLAIN CORPS

Anderson, Kevin Lenwood
Apple, James Lewis
Atwood, Theodore Oertel, Jr.
Baldwin, John Frances
Baxter, Clifford Albert, Jr.
Benedum, Thomas John
Bentley, Lawrence Jay
Bevins, John Joseph
Black, Richard David
Bond, Thomas Dudley
Boyd, James August
Brogan, Hugh Thomas
Bunce, Bobby Gene
Burt, Michael Floyd
Carroll, Vincent Wayne
Cartee, Ira Oliver
Connor, Robert Matthias
Cronin, James Edward, Jr.
Dagnoli, Albert James
Daigle, Robert Edward
Dendulk, Donald Edward
Deramus, David Tillman
Dike, William Louis
Dowers, Jack Emerson
Eack, Donald James
Eslinger, Harold Howard
Evans, George Wesley, Jr.
Ferraro, Joseph Anthony
Forrester, Oscar Bron
Fuller, Ivan Richard
Greco, Robert John
Grove, John Wesley
Gryga, Theodore
Hart, Brian Patrick
Holwager, Philip Joseph
Horne, Lawrence Rexwell, Jr.
House, John David
Howland, Joseph Albert
James, Willard Lewis
Keyser, Charles Lovett
Kibble, Herman Loris
Kirstein, James Fritz
Latty, Allan Robert
Leis, Edward Charles
Maiorana, John
Marsden, Thomas Charles
Martin, Henry Lawrence
McCoy, Marion Wilbert
McMahon, Gerard Thomas
McManus, William Griffis, Jr.
McNeil, John Roland
Mulqueen, Joseph Christopher
Niederhuth, Wayne Lee
O'Connor, Gerald Coman
O'Connor, James Paul
Palafox, Lorenzo Joseph
Parker, Charles Roy
Patrick, William Lee
Peterson, Jay Dean
Pocock, Thomas Reid
Prendiville, Edmond
Ramming, Michael Evert
Reidy, Robert Paul
Robertson, Carey Ellis
Robison, Paul David
Rosenblatt, John Jacob
Ryder, Frederick William
Sellers, Larry Gene
Sestito, Joseph Nicholas
Shirey, Larry Neil
Sostrich, John Louis
Sperry, Robert Henry
Spreier, John Edward
Stubbe, Ray William
Taylor, Andrew Robert
Travers, David Owens
Wallace, Rodney Carrol
Walz, Arden Dean
Williams, Paul Henry
Wilson, James Roscoe, Jr.
Zobel, Frederick Robert

CIVIL ENGINEER CORPS

Alfredson, Leonard, Eric
Angelelli, Ronald Paul
Ayres, Larry Lee
Bankert, Frederick Ball, III
Best, Thomas David
Binning, Cogal David, Jr.
Bivins, Joseph Powell
Bone, Talbot Wade
Brown, Richard Eugene
Brown, William David
Burke, William Francis, III
Burkett, Hugh Alan
Cottingham, John Richard
Dean, Hilbert Dwayne

Fisher, William Grayson, Jr.
Franz, John Peter
Frey, Michael Leslie
Fulgham, James Grant
Geibel, Bruce Burgee
Groncznack, Robert Patrick
Gunn, Alexander Carlan
Hamm, Edward Roger
Hartman, Franklyn Joseph
Heath, John Emery
Hemme, Glenn Darwin
Hoff, Michael Leroy
Holland, George William
Holm, Stanley Robert, Jr.
Hoyt, Ronnie Allan
Hughes, Duncan Stuart
Johnson, Allan William
Johnston, Keith Alan
Jones, Frederick Joseph
Jones, Lloyd Kenneth
King, Jerry Wade
Kovach, Richard Gaza
Larsen, Quentin John
Leech, John Geoffrey
Lehman, John August
Lemon, Harvey Brace
Lenehan, Thomas Francis, III
Lines, Richard Alden
Lowery, Edward Joseph, Jr.
Lucas, John Albert, Jr.
MacKinnon, Donald Joseph
MacLaughlin, James Warren
McClure, Thomas Daniel
Moeller, Robert Lewis
Mohsberg, Sidney Augustus, III
Monroe, Gary Ellis
Moyle, Allan Leroy
Nash, David Julian
Nigro, William Thomas
Osborn, Prime Francis, IV
Owens, James Walter, II
Palmborg, James Glenn
Prahl, Charles Scott
Reid, Gary Harper
Rever, John Nicholas
Rice, Richard Hardwicke, Jr.
Shelton, Michael William
Sherron, John Thomas
Simons, William Joseph
Smith, Louis Martin
Somers, Allen Harry
Spiezio, Frank Anthony
Talutis, William Romans
Taylor, Robert Adell
Tomayko, David James
Tomiak, Walter Wayne
Vadas, Peter Paul
Walcott, Fred Perry
Ward, James Emerson
Waters, William Allen
Weyler, Michael Ernest
Wynn, Alfred Lee
Yankoupe, George William

JUDGE ADVOCATE GENERAL'S CORPS

Clum, John Peter.
Collins, Cornelius John, Jr.
Engstrom, David Lennart.
Freyer, James Anthony.
Gallagher, Stephen Barry.
Glenn, Lawrence Michael.
Goldberg, Michael Mendel.
Grant, Harold Eric.
Green, Michael Pruette.
Greiveldinger, Geoffrey Robert.
Guy, David Ansley.
Haldeman, Harold Watson, Jr.
Henriksen, John Raymond.
King, Richard Glen.
Krogmann, Newell Daniel.
Larson, David Charles.
Lawrence, Thomas Anthony.
Llewellyn, Adam Karl.
Maris, George Michael.
Milliken, Jon Chancy.
Misiaszek, Peter Edward.
Mollison, Richard Miles.
Newman, Richard Carson.
Nicks, Harold Troy.
Nolta, Franklin Lyman.
Osper, George Peter.
Powers, Jack Thomas.
Principi, Antonino Joseph.
Radlinski, Gregory Keith.
Riggio, Michael Vincent.
Schiff, Richard Benjamin.
Scholz, Ronald Walter.
Shea, John Patrick, III.
Smith, Glee Sidney, III.
Smith, Roger Arthur.
Smith, Willie, Jr.
Stoller, Harold Lloyd, Jr.
Surpless, Donn Curtis.
Thomas, Arthur Ralph.
Uris, Richard Blair.
Vanderhoef, Craig Titus.
Vinson, John Charles.
Warden, Irving Darris, Jr.
West, David Ian.
Wylie, Peter Caldwell.
Zimmerman, Richard Edward, Jr.

MEDICAL SERVICE CORPS

Ackley, Paul Nelson
Aringdale, Gordon Lyle
Bailey, John William, II
Banner, Herrmann Edwin
Benander, Douglas Norman
Brady, James Arvid
Brant, Robert Henry
Brubaker, Ralph Wesley
Buckley, William Michael
Campbell, Robert Eugene
Chitwood, Carl Steven
Coolbaugh, James Cameron
Cooper, Thomas Michael
Cowart, Paul Ray
Creahan, David Joseph, Jr.
Cunningham, Robert Smith, II
Cygan, Walter Francis, Jr.
Daniel, Paul Edwin
Dayhuff, James Edmund
Dickens, Timothy Holland
Dodge, Benjamin Fowler, III
Ehlert, George Joseph
Elzy, Robert Lee
Fisher, David Howard
Flondarina, Melchor Navelgas
Freed, Stanley Harold
Friedman, Arnold Leon
Fromm, Susan Alice
Frost, Alan Walker
Galley, Charles Bernard
George, James David
Giron, Sagat Macaraeg
Conard, George Eugene
Graham, Bruce Warren
Hall, Charles Edwin
Hamm, Melvin Neal
Hazelton, Robert Henry, Jr.
Hopkins, Robert Frank
Husted, Stanley Ross
Hyde, Noel Alfred
Jackam, David Charles
Kafer, Sallee Pittman
Kellner, John Robert
Koehn, Galen Roy, Jr.
Lamdin, Jay Marshall
Littlefield, Judith Hiller
Mack, Earl Kenneth, Jr.
Maples, John Allen
Mataldi, Alan Elio
McCalment, Theodore Emil, Jr.
McCracken, Gary Owen
McDermott, Donald Stephen
McLaughlin, Judith Schut
Moore, John Riley
Morris, Wayland Franklin, Jr.
Myers, Charles Michael
Nayote, Arthur Dennis
Nazzaro, John Thomas
Newquist, Robert Louis
O'Leary, Terrence James
Parker, Richard John
Patterson, William Larry
Pinkerton, John Ward
Potts, James Conrad
Pratt, Michael Lee
Profita, Salvatore John
Relinski, Robert George, Jr.
Rethmeier, Kenneth Allen
Riesenhuber, Richard Dale
Shannon, Richard Harold
Stockmoe, Elizabeth Anne
Tackitt, Robert Duane
Tenopir, Stanley Joseph
Thomas, Whitney Proctor
Thompson, Robert Arthur
Vosloh, David Lee
Walker, Richard Ives
Watkins, Osborne Thompson, III
Wildes, Dudley Joseph
Wilkinson, John Preston
Wood, Owen Leslie
Woods, Ronald Stafford
Zila, Robert Charles

NURSE CORPS

Austin, Stuart Richardson, Jr.
Baker, Deirdre Jean
Bloshinski, Elizabeth Rose
Bohn, Randolph Joseph
Clifford, Betty Jean
Corboy, Mary Cornelia
Cords, Marvin Dale
Crist, Margery Weitzel
Dempsey, Frederick James
Emerson, David Kent
Finley, Frances Lee
Griffith, Joanne Simon
Hamilton, Dorthea Carolyn
Harris, Marina June
Hildebrand, Carol Thorson
Holman, Diane Margaret
Ingram, Charles Hershel
Jacobsen, Jayne W. M.
Krauser, Sheila Ann
Kudrav, Christine
Lane, Sally Lois
Lochotzki, Kenneth Jerome
Mencik, Barbara Ann
Meredith, Linda Margaret
Miller, Linda Jeanne
Mitchell, Mary Catherine
Mocarski, Frances Jane
Morris, Edward William
Nolan, Marguerite Anna
O'Brien, Barbara Ann
Patec, Karen Martin
Peace, Velia Decicco
Powell, Alice Ann
Prue, Phyllis Erma
Rex, Anita Carmelita
Richter, Maryellen Agnes
Rist, Susan Elizabeth
Robinson, Ida Marie
Ryan, Kathleen Veronica
Sattazahn, Mary Della
Schneider, Karen Sue
Smith, Maureen Moloney
Stokes, James Edmond
Sulcer, Bert Reid, Jr.
Thomas, Thelma Ann
Vering, Wilma Gertrude
Vivian, Sandra Joy
Warenfelt, Marianne Krisanda
West, Mary Alice
Willhelm, Patricia Ellard

IN THE MARINE CORPS

The following-named chief warrant officers for temporary appointment to the grade of first lieutenant in the Marine Corps, for limited duty, pursuant to title 10, U.S. Code, section 5596, subject to the qualifications therefor as provided by law:

Armstrong, Terry L.
Ashe, Johnnie E.
Bauer, Craig L.
Bishoff, Douglas L.
Blair, Eldon E., Jr.
Blume, Hendrik A.
Bohlen, Michael W., Sr.
Bolton, Burl D.
Brahmer, Ronald M.
Brown, Stephen R.
Buck, James D., Jr.
Burpo, Fred L.
Calvert, Walter D.
Carter, Dandridge S.
Carver, Dennis
Case, Douglas L.
Castro, Robert, Jr.
Chatelain, Jerry W.
Chavez, Jose C., Jr.
Cochran, Melvin L.
Cone, Donald P.
Cornwell, Charles L., Jr.
Craig, Douglas B.
Craig, Dwight D.
Crowl, Daniel F.
Cummings, Michael K.
Czaikoski, Stephen H.
Daly, Otto A., III
Davidson, Ronald J.
Davis, Gunnar F.
Demers, Steven S.

Dickerson, Walter S.
Douthit, Roger W.
Edwards, James R.
Ellis, Ernie L.
Ewadinger, James L.
Finklea, Gordon R.
Finocchiaro, Carmelo A.
Foltz, Donald K.
Fox, Thomas A.
France, Clarence N.
Frierson, Douglas
Fuhrman, Gary M.
Ganey, Michael J.
Garcia, Jose T.
Garner, Robert M.
Gebaide, Johnny E.
Girl, Bruno J., Jr.
Gomez, Mario A.
Graham, Arvis O., Jr.
Grant, Frederick H.
Guthrie, Charles S., Jr.
Hajduk, Loren E.
Hambrick, David W.
Hardy, Patrick J.
Harrington, Stephen L.
Hasty, Boyette S.
Hazelwood, James W., Jr.
Heuman, Terry L.
Hill, Benjamin F.
Hoot, Roger L.
Hopper, Seybourn E., Jr.
Jamieson, Robert C.
Jellison, Larry E.
Johnson, Michael D.
Jolicoeur, Paul J.
Jungel, Paul M.
Karlson, Kenneth E.
Kidwell, David L.
Kierepka, John J.
King, Stanley F., Jr.
Kinsella, Michael S.
Kiser, Marvin
Klepac, Henry L.
Knippel, Bruce W.
Koon, Arthur C.
Koren, Ronald A.
Kush, Dennis E.
Labrousse, Robert M.
Lake, Dawaine H.
Lambeth, Stephen C.
Larkin, Herman C.
Legeyt, Charles H., III
Lemasters, Richard G.
Longshore, John M.
Lowery, William D.
Martin, Brian R.
Martin, Raymond I., Jr.
McMann, Donald R. G.
McWilliams, Charles A.
Meisenhelder, Gary P.
Miller, Robert B.
Moon, Nathaniel
Mulloy, Thomas M.
Nall, Mark A.
Neal, James H., Jr.
Oermann, Dennis K.
Owens, Andy G.
Palacpac, Joseph J.
Parslow, James F.
Penn, David T.
Penn, Thomas L.
Perez, Arturo
Pfaffenberger, Thomas J.
Pickens, Daniel B.
Pierre, Clarence G., Jr.
Pitt, Thomas I.
Poteet, Kenneth B.
Preece, Winnis G.
Pritchard, John E.
Puhr, Michael A.
Reed, Marcus T.
Reese, Alec W.
Roberge, William J.
Robinson, Michael L.
Rosenfield, Martin L.
Rudolf, Larry F.
Runa, Frank L., Jr.
Santa Cruz, Javier
Schrader, William W.
Scott, Frank L., Jr.
Shaw, Gordon A.
Shea, Daniel P.
Sheffer, James M.
Sliva, Antonio B.
Slock, Douglas G.
Smorsty, Dennis, G.
Smith, Paul L.
Smith, William J.
Snipes, Karl P.
Snow, Joseph J., Jr.
Sofranac, Paul
Stevens, Terry G.
Stiltner, Johnny J.
Stuck, Gary W.
Tallman, Peter W., Sr.
Tate, Robert R.
Thames, James V., Jr.
Thompson, James E.
Thurman, Russell R.
Troublefield, Donald T.
Turbyfill, Charles L.
Vickers, Jerry M.
Waller, Dean A.
Warford, Jack L.
Westerman, Terrence M.
Wherry, David J.
Wieckowski, Wesley
Willmon, James R.
Wilson, Charles B.
Woodruff, Roger L.
Wyss, Douglas E.
Yale, James E.
Rates, Charles W., Jr.
Yinger, Raymond R., III

CONFIRMATIONS

Executive nominations confirmed by the Senate, April 2, 1980:

PANAMA CANAL COMMISSION

The following-named persons to be Members of the Board of the Panama Canal Commission:

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.

INTERSTATE COMMERCE COMMISSION

Reginald E. Gilliam, Jr., of Virginia, to be a member of the Interstate Commerce Commission for the term of 7 years from January 1, 1976.

FEDERAL MARITIME COMMISSION

Peter N. Teige, of California, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1980.

Peter N. Teige, of California, to be a Federal Maritime Commissioner for the term of 5 years expiring June 30, 1985.

NATIONAL TRANSPORTATION SAFETY BOARD

James B. King, of Massachusetts, to be Chairman of the National Transportation Safety Board for a term of 2 years.

DEPARTMENT OF EDUCATION

Betsy Levin, of North Carolina, to be General Counsel, Department of Education.

The above nominations were approved subject to requests to appear and testify before any duly constituted committee of the Senate.