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(Legislative day of Wednesday, September 9, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Reverend James David Ford, D.D., Chaplain, U.S. House of Representatives, offered the following prayer:

Let us pray.

Almighty God, from whom we receive our strength and in whom we live and move and have our being, grant that we will listen to Your promises and heed Your word. In the course of our daily concerns, may we hear Your voice of calm and assurance, and amid the clamor of our world, may we be led by Your divine guidance.

Bless those who turn to You and may Your spirit enable all people to see the way of truth and justice. Help us not to be overcome by the challenges that come from every side, but supported by Your love, may we do those things that bring honor to You and are of service to those in need. In Your name, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

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

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the Senate be approved to date.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order and certain Senators as heretofore identified on special orders, there be a brief period for the transaction of routine morning business of not more than 20 minutes in length in which Senators may speak for not more than 5 minutes each.

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

ASSASSINATION ATTEMPT ON PRESIDENT SADAT

Mr. BAKER. Mr. President, I was shocked this morning to learn on television of the assassination attempt on President Anwar Sadat, of Egypt.

We do not know the details yet. Indeed, we are not sure whether or not President Sadat has survived this attempt on his life. But we are sure that it was a savage attack on a great world statesman, a friend of this country, and a leader for peace.

I wish to express, Mr. President, my personal regrets and my profound sorrow. I believe that I must surely speak for every Member of the Senate when I say that we extend to President Sadat and his family our very best wishes for his recovery, and to the people of Egypt our hopes for their continued stability and movement toward prosperity and peace.

Mr. President, if the distinguished minority leader wishes me to yield to him at this time, I am happy to do so.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. President, I share the majority leader's expressions of grave concern with respect to the events that have taken place in Egypt.

As the distinguished majority leader has indicated, we here on this floor are unsure at the moment as to precisely what the state of President Sadat's condition is. We hear conflicting reports.

Our hopes and our prayers are that he will, indeed, survive this dastardly assassination attempt. If those prayers cannot be answered, we pray that there will be peace in the Middle East. I pray that we will be cool at this moment and that we will not make hasty judgments.

I know that there are those who feel that this event may have some impact on the AWACS sale. I would simply wish to caution that we ought to take a step back and we ought not reach any hasty decisions. We ought to see how things fall into place, what occurs, what the implications are, and be patient and careful in reaching our decisions on this matter, realizing that, after all, the interests of the United States are much involved and should always have top priority in our thinking and in our judgments.

Mr. President, I join with the distin-

guished majority leader in expressing our sorrow to the family of President Sadat and to the families of the others who were injured.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER (Mr. ABENOR). The majority leader is recognized.

Mr. BAKER. Mr. President, in deference to our concern for the welfare of President Sadat, the Vice President of Egypt, the Defense Minister, and others who were involved, I will withhold any further comments at this time.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I am prepared to yield the remainder of my time, if any remains, to the minority leader or to any Senator who may wish to have it.

Mr. ROBERT C. BYRD. Mr. President, I accept the generous offer of the majority leader. There is going to be a colloquy on my side of the aisle that will require some time, I understand. I would like to use the time the majority leader has offered to yield.

Mr. BAKER. Mr. President, I now yield the remainder of my time to the distinguished minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

HOUSING INDUSTRY DOWNTURN

Mr. ROBERT C. BYRD. Mr. President, the housing industry has long been regarded as a bellwether of this Nation's general economic health. A major downturn in housing strains the entire economy. The housing industry employs a wide range of skilled and unskilled labor, and many small businessmen throughout the country earn their livelihood through the industry. Housing investments tend to have a multiplier effect as people purchase appliances and furniture, and make improvements in their property.

Two years ago, on October 6, 1979, the Federal Reserve Board began a new policy of tight money. The Fed said that it

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

would permit a relatively modest and constant growth in the money supply, and let interest rates go wherever demand for money would push them. At that time, I warned against a period of sustained high interest rates, and of the waste of human potential and economic capacity that they bring. We are now seeing exactly how bitter the medicine has become, as we reexamine the Fed's policy of tightening credit and raising interest rates, and the destruction it has fostered.

We are now in our 34th month of decline in housing starts and it appears clear that 1981 may be the worst year for housing since 1946—when 1,023,000 housing units were started. Housing starts in August fell to a seasonally adjusted annual rate of 937,000 units. This is only the third time since World War II that housing starts have fallen so drastically. Moreover, the August rate was supported by federally subsidized section 8 housing starts. As the budget cuts begin, federally subsidized activity will also plunge in the upcoming months.

The Fed's action to tighten credit has reduced both the demand for and the supply of mortgage money.

It is estimated that unemployment in the construction industry alone could climb for 17 to 21 percent of the construction workforce, or more than a million workers.

The Chairman of the Federal Home Loan Bank Board, Richard Pratt, has stated that 80 percent of the country's savings and loan associations are experiencing operating losses under present economic conditions.

Real interest rates are at their highest levels since World War II. The Federal Reserve Board appears unwilling to back away, even a few steps, from its policy of tight money. In fact, this year monetary expansion targets were lowered, and are being lowered again for 1982.

Since the housing industry is among the largest industries in the country, a severe collapse would shock the economy. The housing industry cannot be left alone, without aid, to bear the brunt of what the Fed contends are our only real anti-inflationary policies. Before the crisis worsens, the administration must insure that adequate credit is made available to the industry. This means further reexamination of the Federal Reserve Board's tight money policy. It means close scrutiny of administration proposals to cut Federal loan guarantee authority for housing. Americans continue to need new and affordable housing, and the Congress must work to see that this need is met.

Mr. President, I, too, have an order which was entered on yesterday for 15 minutes. I ask unanimous consent that I may combine the two time periods under my control and that I may utilize my entire time later this morning.

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

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

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from

Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. I thank the Chair.

WHAT CAN THE CONGRESS DO TO REDUCE HIGH INTEREST RATES AND INFLATION?

Mr. PROXMIRE. Mr. President, none of us can go back to our States and talk to more than a handful of people without recognizing that the problem that is troubling the American people more than any other right now is high interest rates as the cruel, cutting edge of inflation. High interest rates are caused in very large part by massive Federal debt and huge deficits.

HIGH INTEREST RATES DEEPEN FEDERAL DEFICIT

First these interest rates constitute a very, very serious extravagance for the Federal Government itself.

Next year, the estimates are that this Federal Government will have to spend \$100 billion to service the national debt. That will constitute the biggest percentage of gross national product for service on the national debt ever in the history of our country, including the peak of World War II and the period after World War II when we had a larger national debt in relationship to our gross national product. But the cost of servicing this national debt would be far greater, and far greater even in relationship to the size of our much bigger economy, than it was at that time because interest rates are so high.

To put it into some immediate perspective, I might point out that the cost if distributed among all of our 220 million people would be about \$500 per year for every man, every woman, and every child in this country.

That means for a family of four, their burden for just servicing the national debt, buying nothing, buying no defense, buying no programs for the least fortunate in our society, buying nothing but air, buying just interest on the national debt, is \$2,000 for the typical family of four in this country.

That \$100 billion that we will have to spend next year just to service the national debt is bigger than the entire budget in 1961, just 20 short years ago.

Let me repeat that: The \$100 billion we will spend next year to pay interest on the national debt is bigger than our entire budget when John F. Kennedy was President of the United States. That is how colossal, how burdensome, how overwhelming the interest on the national debt has become.

INTEREST ON DEBT UNCONTROLLABLE

Furthermore, that \$100 billion is absolutely uncontrollable. It is not like other expenditures where we can vote to cut it down. We cannot reduce it to \$80 or \$50 billion, or any other figure, just by passing legislation to reduce it. It is an obligation. Every Member of this body, Republican and Democrat, realizes that this country must keep its obligations. Our obligations are sacred.

As Alexander Hamilton recognized at the time of the Revolution, keeping our obligations and keeping our promises are absolutely essential if we are going to be able to borrow money in the future to keep our Government going. So we

cannot cut that terrific burden. We have to pay that \$100 billion a year whether we like it or not. It is almost the only element in our budget which is not controllable.

We can even reduce the entitlement programs. In fact, we will have to reduce the entitlement programs. We can do that by legislation. We are very reluctant to do it, we do not like to do it, but we can do it. We cannot, however, reduce the interest on the national debt, at least not directly by legislation.

But there is something we can do to hold it down and get it under control, which I will come to at a later date. We cannot pass a law saying we are going to pay less interest. We have no choice. We have to pay it.

HIGH INTEREST RATES DEVASTATE ECONOMY

Also, this huge Federal debt that we have and the enormous deficits that we are running have a more immediate effect, a devastating effect on homebuilders, on auto dealers, on farmers, on small businessmen.

What happens, of course, is that the borrowing by the Federal Government to fund the deficit, borrowing to fund off-budget borrowing, crowds out Americans who need credit. That borrowing simply takes the place of the kind of loans that literally hundreds of thousands of businessmen could get, and at lower rates, if the Federal Government were not in the credit market so deeply.

So the fact that we have a \$1 trillion national debt that we are pushing to \$1 trillion, 79 billion is the fundamental problem that we have if we are going to do anything about getting interest rates down. We have to do something about that colossal debt, those enormous deficits. That is the core of the problem, Mr. President.

HIGH INTEREST RATES AGGRAVATE INFLATION

Furthermore, Mr. President, these huge Federal deficits and massive debts, by themselves, are aggravating inflation. In fact, I think it is the most inflationary element we have in our Federal policies because, by forcing interest rates up, we increase the cost of virtually everything we buy.

We live in a credit economy, Mr. President, and there is nothing that we can buy that is not affected by the rate of interest that the businessman has to pay in producing it. Of course, the most conspicuous element is a home. Today, the average price for a home is over \$70,000. Because interest rates are so high, when a typical buyer goes to buy a home—of course, almost nobody can pay cash for his home. Who can come up with \$70,000? You have to borrow and, if you are lucky, you have to come up with a downpayment of only 20 percent. So you have to borrow with a mortgage.

HOUSING

The typical mortgage now is 17 or 18 percent. Let us take the 17-percent figure. If the mortgage is 17 percent, calculations that have been made by the housing experts on the Banking Committee are that the typical home buyer will have to make a \$1,000-a-month payment on that average-priced house—\$1,000 a month. Mr. President, that just knocks out the overwhelming majority of the American people. They cannot

afford to pay \$1,000 a month for their housing.

After they pay taxes—social security tax, income tax—the average family in this country has about \$16,000 or \$17,000 left. If they have to pay \$12,000 for housing, that gives them \$5,000 for everything else and they cannot get along on that. That is a poverty income. So it knocks an average family, even knocks a family that has a better-than-average income, out of the housing market.

The important point to recognize here is that out of that \$1,000 a month, 80 percent—\$805 to be exact—is the interest cost. The interest cost is the culprit. If we could cut that in half, we could reduce the monthly payments from \$1,000 to \$600 a month. That is still very high, but it would be reasonable enough so that literally hundreds and hundreds of thousands of families that cannot buy homes would buy them.

AUTO INDUSTRY

Of course, that is true of automobiles. Very few people can afford to pay cash for an automobile these days—\$5,000, \$6,000, \$7,000, \$10,000 to buy a new car, or even a used car. The overwhelming majority of people have to finance that purchase. When they finance the purchase, a big element in the cost is interest. It is a prohibitive element.

You talk to any auto dealer. He will tell you that he is unable to sell cars now because the monthly payments for buying those cars is too high. He cannot even afford to keep in stock a sufficient inventory so he can show his customers the new cars he has available. Why? Because he has to pay thousands of dollars a month with a typical dealership just to pay interest on his inventory. So this is having a devastating effect on the automobile business.

The head of American Motors was in my office just a few weeks ago. He was talking about the grim outlook for all automobile companies. He pointed out the heart of it was high interest rates. That is what is throttling the automobile industry. That is why Detroit and States like Indiana, Ohio, Wisconsin, too, and many other States, are in such dire shape. Of course, every State, including South Dakota, has many auto dealers who are very, very important in the local economies. They are really suffering. Many are going out of business because they simply cannot afford to continue with interest rates as high as they are.

CREDIBILITY

Mr. President, I suppose the most important damaging effect of these huge Federal deficits we are running and the massive debt is that they destroy any credibility that our policies can have with the American people that we really are getting a grip on inflation. I noticed in the paper just yesterday an article interviewing former Secretary of the Treasury Michael Blumenthal. Mr. Blumenthal, as we all know, was Secretary of the Treasury between 1977 and 1979. He is a brilliant businessman. He has been very successful as a businessman. He understands the business psychology. He also understands a great deal about our Federal Government and the prob-

lems of our Federal Government, having been a Secretary of the Treasury for a number of years and, I think, a very responsible and intelligent Secretary. Here is what Secretary of the Treasury Blumenthal said the other day.

SECRETARY BLUMENTHAL

He said he is dismayed by the prospect of large budget deficits in the next several years. He warned that that same fear among business leaders generally is discouraging the pickup in corporate investment that the administration is hoping for. He said he sympathizes with the frustrations of Treasury Secretary Regan, who has bluntly told business executives that they ought to be responding to the President's program by stepping up their investment plans; but he points out that the administration has done rather well for the business and financial community, and business is grateful. So he does not think that President Regan is being picked on, but it is pretty clear that the loss of three-quarters of a trillion dollars in tax receipts for the next 6 years represents a gap that no one can see being bridged very easily.

Mr. President, he is talking about the fact that we face the likelihood of massive deficits over the next 5 years, at least.

BUSINESS WEEK

Business Week, which, as we know, is a spokesman for American business, a very eloquent one and a very reasonable one, in its most recent issue—as a matter of fact, it is dated October 12, but it came out yesterday. Their lead editorial says:

President Reagan's initial tax and spending victories in Congress were due, in large measure, to an impressive grassroots lobbying blitz by a united business community. But as the White House grds for a second round of budget-cutting, it is finding that some top Washington corporate lobbyists are distinctly cool to the new call to arms.

It indicates that they are going to have great difficulty in making these reductions not because they are opposed by labor and opposed by consumer groups and others, but because many of these cuts will be opposed by business itself.

FORTUNE MAGAZINE

Then we have Fortune Magazine the other great spokesman for the American business community. They have an article entitled "What The Markets Are Telling Reagan." It says they are not saying the economic plan will not work; they are afraid he will not stick with it.

Then in a very revealing and perceptive paragraph, Fortune says this:

But the public has come to equate deficits with inflation, and justifiably so. While the Fed doesn't have to monetize them, the political pressure to do so grows as the Treasury increases its demands on the money markets and more and more private borrowers are frustrated in their desires for credit. The connection between deficits and money growth seems incontrovertible: from 1946 through 1966, monetary growth was modest, inflation was generally low, and the cumulative deficit came to all of \$2.4 billion.

That was from 1946 to 1966, a cumulative deficit that was virtually a balanced budget during those years. Then, of course, as we know, we had low inflation. We had an average inflation of around 1 or 2 percent.

Since then, monetary policy has been disastrous, inflation has risen to double digits, and deficits have totaled more than \$350 billion.

Not only has monetary policy been disastrous, of course, Mr. President, but these enormous fiscal deficits we have been running have been devastating for credibility for our economy.

SECRETARY REGAN

Now, Mr. President, in the current issue of U.S. News and World Report, we get a truly alarming revelation regarding the Secretary of the Treasury. This is also October 12. U.S. News reports that Secretary Regan says:

The debt limit will have to be raised next year, maybe twice.

In other words, \$1.79 trillion is not enough. We will have to go higher—not once, but twice next year. What this means—the signal this is giving to the American people—is that we can expect that we are going to have deeper deficits, demanding more of the credit markets, driving interest rates higher, and increasing the rate of inflation in the next couple of years, and that will be the policy of this administration.

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

The PRESIDING OFFICER. The Senator's 15 minutes have just expired.

Mr. PROXMIRE. Mr. President, my time has expired, and I yield the floor. I will speak later on this subject.

RECOGNITION OF SENATOR EAGLETON

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

Mr. EAGLETON. I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. I thank my good friend from Missouri.

I will conclude my remarks at a later date, but I have a statement on another subject at this time.

OUR RECORD DEMANDS THAT WE RATIFY THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, when the Senate debated the International Security and Development Cooperation Act of 1981, a key issue of concern was the question of American military and economic assistance to El Salvador. The bill as reported by the Foreign Relations Committee imposed certain conditions on U.S. aid to the Duarte government. The chief objective of these conditions was to insure that in order to continue to receive assistance, the Duarte government would have to demonstrate significant improvement in the area of human rights.

Specifically, the bill requires the President to certify to the Congress that the Government of El Salvador is making significant progress controlling gross violations of human rights and is moving to bring an end to the indiscriminate murder of Salvadoran citizens by some elements of its own armed forces.

Mr. President, I am extremely pleased the Senate voted to support these pro-

visions of the bill. This action which reflects an active and firm commitment to the fight for human rights is far from being the first step this body has taken in attempting to safeguard the basic human rights of people all over the world. It has certainly not been through inaction that we have earned the reputation as a vanguard in the international fight for human rights.

Mr. President, what could be a more appropriate expression of our convictions than to ratify the Genocide Convention, a treaty which would make mass murder—the most heinous crime known to man—an international crime?

Why have we waited so long to join over 80 other nations in a treaty which seeks purely to safeguard the most basic precious human right? Surely we have not judged such a measure to be unworthy of our support.

I urge my colleagues to act quickly to erase this blemish from our record of support for human rights. We must ratify the Genocide Treaty now.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, will the distinguished Senator from Missouri permit me to interrupt him?

Mr. EAGLETON. I yield.

Mr. BAKER. I thank the Senator.

ASSASSINATION ATTEMPT ON PRESIDENT SADAT

Mr. BAKER. Mr. President, I regret to advise the Senate that the Vice President of the United States has just notified me, and asked me to notify the Senate, that President Sadat of Egypt has just passed away.

The Vice President asked me to convey this information to the Senate and to pass on to you the information that our notification, at this moment, is that President Sadat did die from the wounds suffered in an assassination attempt.

As I receive an official confirmation of that or other information, I will pass it on to the Members of the Senate.

Mr. EAGLETON. Mr. President, all in this body are stunned by the tragic developments that have unfolded in Cairo this morning.

President Sadat is one of the great men of modern times, a man of extraordinary wisdom, a man of extraordinary courage.

It is one of the tragedies of our era that decent men of good will become intentional targets of lunatics, fanatics, the obsessed, the possessed. How long will this incredible toll be taken among civilized mankind?

The consequences to world peace of President Sadat's death are staggering, and those consequences will not be easily or readily discerned in the immediate future. There are too few great statesmen in the world today; and when one is gunned down, as President Sadat was this morning, the whole world suffers. This is not simply a loss to Egypt, cruel and deep as that loss is. It is a loss to mankind. It is a loss to civilization as a whole.

Mr. President, I have a speech on another subject which I will pursue, but I notice that the distinguished minority leader is in the Chamber at this time. If he is of a mind to say something at this tragic time, I will yield to him.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Missouri for his thoughtfulness and his courtesy.

Mr. President, there are still mixed signals coming to us with respect to President Sadat's condition, and I will await further information.

THE WINDOW OF VULNERABILITY

Mr. EAGLETON. Mr. President, President Reagan's announcement of last Friday with respect to the MX missile with the B-1 bomber were, to say the innocuous, interesting and, to tell the truth, downright mystifying.

MX MISSILE

The President has decided to "narrow the window of vulnerability" by putting our newest and most accurate missile in our most vulnerable hole, the present Titan hole. If President Carter had recommended this, Senator Tower would have called for his impeachment. There is no way to harden adequately the Titan hole to protect it as the new receptacle for the MX.

What the President's decision does do is to enhance potentially our first-strike capability against the Soviet Union. This may warm the hearts of America's superhawks, but will chill the minds of the Soviet Union's generals and possibly put those generals on a nuclear-war-hair-trigger. Seventy percent of the Soviet Union's missile force is land-based—as contrasted with the United States' rough one-third land, one-third air, and one-third sea. The MX missile in the old Titan hole poses a potential first-strike threat to the heart of the Soviet missile system and thus risks greater United States-Soviet destabilization.

Further, the placement of the MX in the vulnerable Titan hole makes presumed sense from an American retaliatory point of view only if we pretend to protect that Titan hole with a point-site ABM. Thus, if the President gets his way on placing the MX in the Titan hole, he will in time then proceed to seek to abrogate the ABM Treaty between ourselves and the Soviets. Will that not be wonderful in terms of United States-Soviet Arms Control negotiations?

Let us face it, the President's MX decision was purely and simply political. It was the politics of Nevada and Utah, the politics of Senators LAXALT and G'RN who told the President to keep the MX out of their States. What will our European allies tell us when we say to them, "Don't let domestic European politics interfere with the placement of the neutron bomb in Europe"? If we play domestic politics with missiles in the United States, why cannot they play domestic politics with neutron bombs in Europe?

B-1 BOMBER

The B-1 bomber is a "turkey." It will be outmoded virtually at the very time

we have it in any meaningful numbers. It will not be able to penetrate Soviet air defenses after 1990.

It serves as a sop to Air Force generals who like to fly on new bombers.

It serves as a sop to President Reagan's hawkish, anti-Carter campaign pledges.

If we spend billions on the B-1 turkey, we will not have the billions to modernize the B-52-cruise missile combination or to proceed rapidly with the Stealth bomber, the bomber that can penetrate Soviet air defenses well into the 21st century. We will not only be wasting billions, but will be weakening our defenses by short-changing programs that could enhance our defense posture such as conventional force preparedness.

It is as if Reagan social and defense policies have finally merged. We will be placing a social safety net under the window of vulnerability to protect the truly needy. And who are the truly needy? North American Rockwell, the builders of the B-1 bomber.

ORDER OF PROCEDURE

Mr. EAGLETON. Mr. President, I have additional time which I will be delighted to yield to someone if someone so wishes. If there is no desire for that additional time, I will then yield back the remainder of my time.

I ask the Senator from Tennessee and the Senator from California whether either of them wishes the remainder of my time.

Mr. BAKER. Mr. President, I have no need for the remainder of the time. I appreciate the offer.

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

RECOGNITION OF SENATOR CRANSTON

The PRESIDING OFFICER. Under the previous order, the Senator from California (Mr. CRANSTON) is recognized for not to exceed 15 minutes.

TRAGIC EVENTS IN THE MIDDLE EAST

Mr. CRANSTON. Mr. President, I had intended to speak about high interest rates and the deep concern we all have about them, what they are doing to our economy and about the policies that produce them.

I wish first to express my sorrow over the tragic events in Egypt.

At the time that I speak I am not absolutely certain that President Sadat has died, although the reports seem to indicate that that is the case.

This is a tragic act, that is one of violence against one of the world's greatest leaders of our time, a man who has contributed so much to peace in the Middle East and who has been such a staunch friend of the United States.

The consequences of this act cannot be measured in terms of their negative im-

fact upon the peace process in the Middle East and the developing friendship and relationship of stability between Israel and Egypt and its impact on the rest of the Middle Eastern world and on the many issues that we are presently contending with and considering that relate to our relationship with that part of the world. All of that is now in an unpredictable state.

THE HIGH INTEREST RATE COST OF REAGANOMICS

Mr. CRANSTON. Mr. President, today is the second anniversary of the Federal Reserve Board of Governors' decision to keep interest rates high until inflation abates.

We are entering the third year of a policy which was initiated with the announced intention of keeping interest rates high until the Federal Government matches spending with income—in other words, balances the budget.

But to complicate matters further, the Reagan administration has installed and is holding fast to a stimulative fiscal policy calling for massive deficit spending.

The Reagan program is called by the President and others a supply-side program.

The supply-side label, however, will not stretch far enough to hide what the Reagan program actually is: The biggest deficit spending program in history.

The Federal Government's revenues simply will not match the President's promises of increased defense spending and his commitment to our citizens for basic income maintenance and basic Government services.

The fact that the deficit is caused primarily by an accelerating decline in revenues does not change the way the Government must finance the deficit. Obviously, the Federal Government will finance the deficit by borrowing record-breaking sums of capital sorely needed by others in private business, industry and construction.

Earlier this year spokesmen for the Reagan administration attempted to explain why the administration's projected deficit would not be inflationary. As they explained it, "the Fed would refuse to monetize the deficit."

The Fed has indeed refused to monetize the deficit.

The result will be that the administration with one hand has prescribed a supply-side tax cut for the economy but with the other hand it throttles the patient so he cannot swallow the medicine.

Apparently, some in the administration recognize this.

This weekend the Secretary of the Treasury asked that the Fed loosen its grip—make more credit available at lower interest rates—so the economy can recover.

I applaud his statement.

But if recent history is a guide we can expect some spokesperson or other in

the administration say that the Secretary did not mean what he said.

For the fact of the matter is the administration is playing both sides of the monetary policy game.

In September both President Reagan and Secretary of the Treasury Regan complained about the Fed's high interest rate policies. In both cases, spokesmen for each either denied or contradicted the earlier statements. The complaints of the President and the Secretary get front page headlines, but the retractions by their aides get inside coverage in the business pages.

These "good guy" laments by the President and his Secretary distract attention from the very real economic pain being inflicted upon the American people by the policies of this administration.

What we need are some good guy actions by the President to bring down interest rates, and soon.

Small business now rates high interest rates as the single most important problem affecting business. The National Federation of Independent Business reports that this is the first time in history that small business members of the Federation have ranked high interest as the worst problem they face.

The Federation reports that 55 percent of small businesses in California are paying rates in the 19 to 22 percent range. If inventories financed at these rates remain unsold, bankruptcies, shutdowns and lay-offs are foreseeable in the near future.

Housing construction is, as the National Association of Homebuilders describes it, "a nightmare."

None is the American dream of owning a home.

The median price of a home in California is approximately \$100,000. The average income of families in California is about \$28,000. But, to qualify for a loan to purchase a \$100,000 home with a 20 percent down payment and a mortgage rate currently in excess of 16 percent requires a household income in excess of \$50,000. This excludes most people, especially first-time buyers, from the market.

Only 135,000 new units will be built in California this year. This is 60 percent below the 315,000 units needed merely to keep up with demand. California will be short an estimated 400,000 units in 1982. The shortage will keep housing costs high.

The downturn in construction has sent unemployment in the construction industry soaring. Since 1979, 72,000 workers have lost jobs in the building trades—40,000 went on the unemployment rolls this year.

The depression in the housing industry is causing slowdowns and layoffs in related fields. Unemployment compensation claims in California jumped 45 percent in mid-September due in part to layoffs in the lumber industry.

New car sales are off because consumer loans costing 16 percent are shutting buyers out of the market or shifting

these into the used car market. Dealerships are closing down at record rates.

In fairness, everyone is puzzled by the tentative state of the economy. The underlying factors suggest we should be headed for a major period of strong growth, but we appear to be in some sort of suspended animation waiting for something to happen.

In fairness, too, we have much doubt about the answer: The Fed's high interest rates have to come down before the economy will move.

But unless the Fed acts, few see how interest rates will come down without an accompanying crash.

In the meantime the high cost of investment is stopping business plans to invest except in those industries having strong individual markets. The slowdown in economic growth—unless turned around—will close off any prospect that President Reagan's economic expectations for the Nation will ever be realized in his term of office.

There may be those who will welcome the prospect of crashing home prices, wiping out the basic wealth of countless American families, the loss of industries and markets, but I do not. America and the world were changed permanently by the Great Depression and if we have another great economic crisis we will not emerge the same.

Mr. President, I am mindful that I have laid the responsibility to act at the feet of the President.

I am not overlooking my own responsibility as a member of the Senate Banking Committee.

I have introduced legislation (S. 971) to make the Federal Reserve Chairman more responsive to the President's economic and fiscal policies.

I will be introducing soon legislation to deal with the problem created by the independent status of the Federal Reserve Board—an independence that I view as contradictory to the fundamental principles of our representative democracy.

For too long our Nation's monetary policy and even the social objectives of its fiscal policy have been controlled by a group of men who are not elected, who serve 14-year terms, and who are virtually immune from any political accountability for their actions. The supposedly neutral, principled actions of the Federal Reserve Board of Governors necessary to maintain a sound monetary system have intruded into fiscal and other policies.

It is time we recognize that the distinction between monetary policy and other fiscal policy objectives is at best artificial. I intend to work with the majority on the Banking Committee to bring these critically important issues before the committee for hearings, debate, and legislation. The time for so-called gentlemen's agreements with the Fed has ended. There must be a major restructuring of the Federal Reserve Board with provision for an active role for Congress and the administration in reaching agreement with the Fed on monetary policy matters.

RECOGNITION OF SENATOR WILLIAMS

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey (Mr. WILLIAMS) is recognized for not to exceed 15 minutes.

Mr. WILLIAMS. Mr. President, I am happy to yield to the Senator from Illinois.

Mr. DIXON. I am glad to yield to the Senator from New Jersey.

TRAGEDY IN EGYPT

Mr. WILLIAMS. Mr. President, of course, we all come to the Chamber and with the heaviest of hearts learn of the tragedy that unfolded in Egypt today.

We all think back to the first great help that came to that troubled part of the world that was started on the path to peace and understanding under the leadership of this great man, and this moment we are shocked beyond belief and saddened beyond belief also.

We only hope that the leadership he has given, the leadership that did start that part of the troubled world in the past toward peace, will still be the chart for the future.

HOUSING, HIGH INTEREST RATES, AND THE ECONOMY

Mr. WILLIAMS. Mr. President, I am grateful for the arrangement made by the members of the Committee on Banking, Housing, and Urban Affairs, that we have this morning period to express our deep concern about the impact of today's high interest rates on our economy's most important segment, the housing industry.

Today, homebuilders and realtors from all over the country have come to Washington to dramatize, from their own individual experience, how high interest rates are threatening to destroy their livelihoods, and the Nation's ability to provide decent, affordable housing opportunities for its people. Their message is simply stated: Interest rates must come down.

The latest housing statistics reveal how the interest rate crisis is wrecking the housing industry and dashing the homebuying aspirations of millions of American would-be homeowners.

Housing starts for August 1981, are down to an annualized rate of 937,000 units, the third lowest rate since World War II, and more than 50 percent below what is considered necessary to meet minimum national housing needs. The human and economic consequences of this production collapse is heavy. Some 863,000 wage and salary workers in the construction industry are unemployed, and homebuilders in August experienced a 42-percent rise in bankruptcies over a year ago.

Potential home buyers today face mortgage payments that can take their breath away, if not their whole paychecks. A \$70,000, 30-year mortgage at a 17-percent interest rate requires a

monthly payment of \$900 a month, compared to \$615 a month at 10 percent. Clearly these rates and those monthly payments are way beyond the range of most American families.

The housing industry stands on the brink of disaster, and only a drop in the interest rates can pull it back. Whether interest rates fall, or continue at this dizzying pace and go to dizzying heights depends on the quality of the economic policies the Nation pursues.

Reaganomics has always required us to see what just was not there. It offers a wonderfully attractive picture. The Nation could cut taxes, increase tax revenues, boost growth, cut inflation, hold down the money supply, protect the truly needy, and shift billions of extra dollars to the Pentagon. All of these things could happen at the same time.

But this was a smoke and mirrors program from the start. The numbers do not add up. The economic assumptions were based on wishful thinking. Now the smoke has begun to clear, and reflected in the glass is stark reality, a reality that even the President can see, as he comes to Congress to request a change in his program on the eve of its going into effect.

The program was hailed as a new beginning. Public confidence in our economic future would blossom. Business activity would grow, and the economy would enjoy a rebirth of prosperity. Well, what seemed like spring just a few weeks ago has quickly turned to fall, and winter lies just ahead.

The administration's program contains little kernels of truth, that have grown into enormous misconceptions. It is true, tax rates may reach a point where they impede economic growth. And, just as true, if those rates are reduced to some extent, new investment may actually increase revenues. But in moving from these concepts to the administration's economic program requires a giant leap of faith. And, I fear that implicit in the administration's economic program will not be a vital economy, and a shrinking national debt, but runaway inflation and national bankruptcy.

One of its major flaws is the continued budget deficits that necessarily accompany the tax cuts. When combined with the administration's military spending spree, the deficits becomes enormous. It's truly ironic that the administration's package results in such deficits. For years, the old right has preached that deficit spending cannot continue, that balancing the budget is the cornerstone of a healthy economy. At the very moment that the American people and Congressional Democrats have endorsed this idea, the new right proclaims a different message. In the words of Congressman KEMP, "we don't worship any longer at the shrine of the balanced budget." In other words, just as the temple was filling with converts, the high priests ran off to found a new religion.

The budget cuts that featured in the initial plan were large but the lost tax

revenues and increase military spending have overwhelmed them. Moreover, these budget cuts were cruel, going far beyond elimination of waste and frills for programs on which millions depend for a basic, decent existence.

Now, with Wall Street running for cover, and the Federal Reserve grimly sticking to its tight money policies, the administration is requesting a second round of budget cuts, which like the first round, pick the pockets of the poor. The Pentagon budget remains almost sacrosanct—with only a proposed \$2 billion in cuts for fiscal year 1982, and a paltry \$13 billion over the next 3 years, out of a total military budget exceeding \$700 billion during that time. There are unspecified cuts of \$28 billion in entitlement programs over the next 3 years, clearly, to come from medicare, medicaid, food stamps, housing assistance, aid to our cities, and other domestic program areas. And, of course, the administration will continue to claim, as before, that such cuts do not affect the truly needy.

The centerpiece of the new round of budget cuts is a 12-percent across-the-board reduction in a wide range of non-entitlement domestic programs, totaling about \$17.5 billion in outlays. In reality, more than 12 percent would be lopped from some programs, because the 12 percent is measured against the President's March budget and then subtracted from spending levels, which in some cases are already below March's proposals. If the President's new cuts are approved, the result would actually mean the elimination of the UDAG program, an 80-percent slash in Economic Development Administration programs, a one-third reduction in student loans, and a 50-percent cutback in Amtrak and Conrail.

In my view, these cuts have little to say about balancing the budget. After all, the Pentagon, with waste abounding, escapes virtually untouched. No, these cuts are another twist of the administration's knife in the heart of the Federal Government's work over the last 50 years to encourage a basic standard of equal opportunity and human decency for all Americans.

Recent testimony before Congress by Congressional Budget Office Director Alice Rivlin reveals that under CBO's budget assumptions, if the administration's economic program is followed, by fiscal year 1984 defense, benefits to individuals under entitlement programs, and interest on the national debt will consume 98.9 percent of projected revenues, meaning either a total wipeout of other programs or an enormous deficit.

Mr. President, not only the administration's safety net, but its economic program is full of holes. The growing lack of confidence in the program's ability to point the way toward a stronger economy are reflected in the behavior of interest rates, and, the plight of homebuilders, autoworkers, and small business people across the country signals the real future for the economy at large unless national

economic policies are made to operate with consistency.

Mr. President, we can place our faith in a program at war with itself. We can proclaim that a combination of tax cuts for the rich, budget cuts for the poor, and continued huge budget deficits will somehow lead us to the promised land of economic revitalization, or we can take a different course. We can reexamine the magnitude of our tax reduction policies and we can assure a balanced budget in a manner which will gain the confidence of the credit markets and the private investor, without tearing at the fabric of our society.

Mr. President, the honeymoon of last spring and summer is over. The credit markets are telling us that it is time for action to replace the promises. The administration should pay close attention.

I yield back the remainder of my time. I see the Senator from Illinois is seeking recognition.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER (Mr. COHEN). Under the previous order, the Senator from Illinois is recognized for not to exceed 15 minutes.

HIGH INTEREST RATES

Mr. DIXON. I thank the Chair. I want to thank the Senator from New Jersey for those very fine remarks.

Mr. President, as we all know only too well, persistent high interest rates are having a serious impact on our economy. In fact, it is a tribute to the underlying strength and resiliency of the U.S. economy that it has performed as well as it has.

But let there be no mistake. Let no one think that our economy can adjust to the current high interest rates. It cannot, without disastrous consequences for many of its vital components. It is critically important, therefore, that we act, and act quickly, to bring interest rates down.

American agriculture, small business, the homebuilding industry, and the American automobile industry cannot stand much more delay. Failure to act, or the wrong action, could cause all of them irreparable harm.

American agriculture has already been devastated by a prime rate that is currently 19 percent. A recent Wall Street Journal story states that:

Inflation, high interest rates and even the stronger dollar overseas are combining with a growing grain glut to batter American agriculture. Farm income this year is likely to be no better than last year's \$19.9 billion.

Net farm income has fallen 40 percent, in real terms, since 1979. Farmers, like most small businessmen, borrow from commercial banks, but are not able to borrow at the concessionary rates available to Fortune 500 companies.

Past farm credit crises revolved around the availability of credit. However, this time the problem is not availability; rather, it is cost. Farmers simply cannot

afford current rates of interest. They are forced to postpone needed new machinery purchases, thus hurting farm productivity. Worst of all, many family farmers are forced to give up farming, because the costs are too high and the profit opportunity too small. The result is that precious, indeed irreplaceable, farmland is often lost.

Farmers, however, are not the only ones suffering from ridiculously high interest rates. The housing industry is also suffering. In fact, housing may have the unwanted distinction of being the industry most adversely affected by the current too-high interest rates.

Mr. President, housing starts in 1981 are headed for their lowest level in 35 years.

Too high interest rates are pricing home ownership out of the reach of the average American. They simply cannot afford 17-percent mortgages.

The result is houses do not sell, houses are not built, and mortgages are not made. And so construction industry unemployment is over 16 percent, construction firm bankruptcies are up over 160 percent since 1978, and the Federal Home Loan Bank Board abolishes its problem list of thrift institutions—perhaps because there are now literally hundreds of savings and loans on it. Too-high interest rates are the cause, and unless action is taken, and taken quickly, who will be left to build homes and who will be left to finance them?

And who will be left to buy new cars, because too-high interest rates are also forcing the average American out of the automobile market? "Sticker shock" is an understatement for what happens to the potential car buyer when he or she walks into an automobile showroom. Added to the "sticker shock" is "payment shock."

Looking at the monthly payments and the longer and longer terms of new car loans, the potential buyer may not be sure whether it is a car or a house that he or she is purchasing. So, the buyer drops out. The result is auto sales are one-third below their 1978 level, massive unemployment in the automobile industry and large losses for the auto makers. Auto dealers are left with cars they cannot sell, financed at interest rates that make them too expensive on the lot—and too many are forced into bankruptcy.

Auto dealers, like most small businesses, have high debt-equity ratios, like small businesses, their bankruptcy rate has soared due, in no small part to the impact of sky-high interest rates. Small business growth and vitality is being severely affected by the current interest rate crisis.

Now, Mr. President, there are many across this land who believe the Federal Reserve Board is responsible for the current interest rates mess. Even the Secretary of the Treasury now seems to be among them, which is certainly a departure from the administration's tight-money policy.

Now it is true that the Federal Reserve is partially responsible for the current high rates of interest. The Federal

Reserve has been trying to reduce inflation—and having some real success—by holding down the rate of monetary growth. However if the Fed hits its monetary growth targets for this year, it could mean a reduction in the rate of money growth of over 40 percent.

It is important to remember that, although the long-run effect of lower rates of growth in the money supply can be lower inflation and lower interest rates, the short-run effect is likely to be an increase in interest rates. As the lower rate of monetary growth chokes off the supply of credit, interest rates must climb to reduce credit demand.

This explanation, however, does not explain interest rates that are an unprecedented 10 percentage points above the current rate of inflation, when in the past, rates averaged only 3 or 4 percent over the inflation rate. The Federal Reserve Board is not primarily responsible for this phenomenon. That honor, I believe, must go to the current administration.

The new Republican administration took office in January promising a four-part program to restore the health of the American economy:

Budget cuts, to reduce the rate of growth of Government spending and to balance the budget;

A tax cut, to put more money in people's pockets and to stimulate economic growth;

Reduced regulation, to improve productivity and reduce unnecessary Government paperwork; and

A tight money policy to help fight inflation.

Those are sound objectives, objectives that I support, as do most Americans. But the administration program was based on a theory of expectation. People will be confident as a result of the new program, so the theory goes, and so will behave differently than they ever have before when looking at the combination of expansionary fiscal policy and tight money.

People have not behaved differently, however, and the stock market declined and interest rates stayed high.

Interest rates are high in no small part because people are uncertain, and people are uncertain because administration policy provides no certainty.

The administration is committed to reducing Federal spending and balancing the budget. But it is also committed to a large expansion of the defense budget and huge tax decreases.

The administration wanted to cut taxes to stimulate savings and investment, but it proposed a measure that deprives the Federal Government of the revenues it needs—revenues essential to finance expansion of the U.S. defense effort while continuing to meet high priority domestic needs.

The administration proposed a safety net of programs to meet human needs that would not be touched. The net has holes; however, holes that seem in danger of being enlarged.

What is clear, Mr. President, about administration policy is that it is unclear.

Now the administration argues that its policies are consistent and clear, invoking something known as "supply-side" economics to prove that it all makes sense.

Supply-side economics say deficits do not matter. But the administration is proposing a second round of budget cuts designed to try to hold the deficit to \$42.5 billion.

I believe that this proposal may signal that it now believes that deficits do matter. I believe they do. I believe the American people believe they do, and I have spent 31 years in politics listening to Republicans tell me that they do.

Reducing the size of the tax cut could provide confirmation of the administration's return to conservative fiscal principles. The result, I am sure, would be that interest rates would begin to decline.

The current too-high interest rates must be dealt with—quickly. The American economy—particularly agriculture, housing, the automobile industry and small business—cannot stand much more. They will not be brought down, however, by an expansionary Federal fiscal policy masquerading as "supply-side" economics. That term will not cover up what the American people see as inconsistent policies.

Only the administration has the ability to bring down interest rates. Action by the Federal Reserve Board would provide temporary relief, at best, and perhaps at substantial inflationary cost. The administration must act, and act quickly, to bring down these crippling interest rates. I urge it to do so. Sound action on its part will have my support and, I am confident, the support of the entire Congress.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SARBANES. Mr. President, I seek to proceed under the time that Senator Dixon had under a special order.

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

RIGID POLICIES OF THE FEDERAL RESERVE BOARD

Mr. SARBANES. Mr. President, I wish to address once again the question of the high interest rates and the devastating impact which those interest rates are having upon the economy.

Mr. President, only recently a number of us, members of the Committee on Banking, Housing and Urban Affairs, in the course of considering the Second Monetary Policy Report for 1981 submitted a set of additional views, joined in

that by Senators WILLIAMS, CRANSTON, RIEGLE, and DODD.

In those additional views, Mr. President, we underscored the distressed situation which is being caused in certain interest-sensitive sectors of the economy by the extremely high interest rates.

Mr. President, they provoke a near depression in the homebuilding industry, with respect to realtors, with respect to auto dealers, all of whom have joined together today in communicating with their Representatives and Senators here in the Congress and bringing to them first-hand testimony of the devastating impact which the high interest rates are having upon their ability to operate.

Mr. President we are not talking about marginal economic enterprises; we are talking about some of the most well-established, extremely well-run, long-standing business enterprises.

During the August recess I held hearings in my own State under the auspices of the Joint Economic Committee about the impact of the interest rates. It is very clear that these rates made it virtually impossible for well-established, highly productive, efficient, highly respected businessmen to carry forward their activities.

Mr. President, over the weekend I noticed that the Secretary of the Treasury, for the first time on the part of any major administration spokesman, indicated that the Federal Reserve should loosen its tight money policy.

In the course of the Additional Views filed with the Second "Monetary Policy" Report, the five Senators joining in that indicated it is time for the administration to make clear to the Federal Reserve that the course upon which the Fed has embarked must be reevaluated in the light of its economically counterproductive and inequitable consequences. Therefore, I welcome the statement on the part of the Secretary of the Treasury sending a signal to the Federal Reserve. It is the first time this has been done by a significant spokesman for the administration. It is sending a signal to the Federal Reserve that it should loosen its tight money policy.

In that statement, the Secretary of the Treasury indicated his concern that the economy, in fact may be moving into a recession. It is my own view that these interest-sensitive sectors of the economy are already in recession and, in fact, are almost approaching a near-depression. The Secretary of the Treasury recognizes the impact which the very, very tight monetary policy of the Federal Reserve is having on the economy.

No one has argued that they should open the floodgates, but the Fed has fallen short of its own monetary targets. Of course, the major distortions created to the economy by this policy have been very well and thoroughly spelled out by the various sectors which are suffering so much, and particularly by those who have come to Washington today to bring their problems to the attention of their elected Representatives.

Mr. President, I ask unanimous con-

sent that the additional views to the Second Monetary Policy Report of the Committee on Banking, Housing, and Urban Affairs be printed in full at this point in the RECORD.

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

ADDITIONAL VIEWS OF SENATORS WILLIAMS, CRANSTON, RIEGLE, SARBANES, AND DODD

In Additional Views to the Committee's First Monetary Report for 1981 Senator Sarbanes, Williams, and Riegle expressed their concern about rigid policies on the part of the Federal Reserve which could have highly undesirable practical consequences—interest rates remaining at unprecedented high levels. Those apprehensions have unfortunately been borne out.

Notwithstanding a recent slight decline in the prime rate, interest rates remain at levels that have wrought near-depression conditions in certain interest sensitive sectors of the economy. The current situation is unparalleled. The prime rate has not fallen below 17.5 percent this year, and it has been as high as 21.5 percent. The mortgage rate of many financial institutions is over 18 percent, the mortgage rate at many financial institutions is over 18 percent, the highest it has ever been. The interest rate on tax-free municipal bonds is now over 11 percent, twice what local government had to pay only four years ago.

The rates have caused major distortions in our economy, producing problems urgently requiring remedy. At stake in interest-sensitive sectors of the economy, notably farming, housing, automobile dealerships and small business generally, is the survival of numerous well-established efficient and productive enterprises, important economic resources in their own communities. Their ability to stay in business is threatened not by mismanagement, inefficiency or under capitalization on their part but by an interest-rate situation which they did not create, cannot control and in the long run cannot surmount. The damage done thus far is serious; and if conditions are not soon improved, it will be irreparable.

Furthermore, continuing high interest rates are working at cross purposes with efforts to build a stronger, more productive economy. First of all, while ostensibly designed to check inflation, the high rates themselves become an important contributing factor to inflation. In housing, the availability of an assumable loan or so-called creative financing, which brings down the cost of financing purchase of a home, is almost always reflected in the higher price of that home. Farmers and small businessmen have no choice but to pass on the high cost of credit to consumers in the form of higher prices.

Second, in two respects high interest rates are an obstacle to efforts to reduce the Federal deficit. On the one hand, they increase the carrying charge on the existing debt, thereby raising expenditures. On the other hand, and very importantly, by provoking recession in certain sectors of the economy they cause workers to be laid off, with the result that they cease to be taxpayers and begin instead to draw unemployment compensation from the Treasury.

Third, current interest rates create an absolute disincentive to productive investment. Even in cases where they can continue to operate, business men and women now ask whether it makes good financial sense to invest in expanding operations or replacing outworn equipment when they can earn an immediate, greater return simply by putting available funds into money market funds.

This striking disincentive to productive, employment-generating investment runs precisely counter to efforts to strengthen the nation's productive base.

Fourth, at a time when state and local government jurisdictions face sharp reductions in financial support from the Federal Government, they also face serious obstacles in the bond market. Important capital improvements are being deferred, to the detriment of the economic infrastructure so important to the private sector, as governments must pay rates above 11 percent and shorten significantly the terms of their bond issues.

Fifth, mortgage rates have eliminated all but 5-10 percent of American families from the housing market. While construction of luxury and vacation homes continues in some communities, lower- and middle-income residential construction has virtually ceased. Families required to move for employment reasons face a discouraging choice: to forgo a job opportunity or to run the risk of being unable either to sell a home in one community in order to buy a home in another.

Sixth, small-scale farming is reserved for those who marry or inherit it; interest costs have placed the initial investment beyond the reach of prospective young farmers however enterprising they may be. Established farmers are delaying investment in farm equipment, with obvious adverse effects on productivity.

In view of this situation, which has reached crisis proportions, we cannot simply accept the conclusions of this Report. We do not accept the notion of an "evaluation" of monetary policy that focuses on a single variable, such as bank reserves, without regard for the effects of that policy as they are translated into interest rates. What is at stake in the nation's monetary policy is the overall vigor and balance of the economy, not a theoretical prescription to be adhered to regardless of its consequences.

Nor do we accept the Committee's assertion that there is no reason to think that by adjusting the growth of the monetary aggregates, the Federal Reserve could help to moderate current interest rates. The Fed has actually undershot its own targets for M1B. We are not talking here about opening the floodgates to an increase in the money supply. It does however seem reasonable and necessary for the Fed to reconsider the zeal with which it is surpassing its own targets.

Finally, we reiterate our earlier expression of concern that the Federal Reserve and the Committee give serious consideration to the problems of persistent unemployment and the relationship of monetary policy to employment levels. Current monetary policy is impacting severely on the interest-sensitive sectors of the economy, especially community-based small businesses of all sorts, which are being asked to absorb the costs of a policy that restricts credit while making no distinction between productive and speculative investment.

We therefore regard as insufficient the Committee's expression of deep concern "over the personal costs and the cost in terms of foregone output associated with the unemployment caused in certain credit-sensitive industries by high interest rates." Such a routine response to the crisis in those industries overlooks the profound and perhaps permanent damage which continuing high interest rates may inflict on the diverse productive base of our economy. It is time for the Administration to make clear to the Federal Reserve that the course upon which the Fed is embarked must be re-evaluated

in the light of its economically counter-productive and inequitable consequences.

HARRISON WILLIAMS, JR.
ALAN CRANSTON.
DON RIEGLE.
PAUL SARBANES.
CHRISTOPHER J. DODD.

Mr. SARBANES. Mr. President, I also ask unanimous consent that the article from the Washington Post dated Sunday, October 4, 1981, in which the Secretary of the Treasury says that the Fed should ease its policy, be printed in the RECORD.

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

REGAN SAYS FED SHOULD EASE POLICY
(By John M. Berry and Caroline Atkinson)

Treasury Secretary Donald Regan, concerned that the U.S. economy may be in a recession, said in an interview with The Washington Post that the Federal Reserve should loosen its tight-money policies.

Regan stressed that he was not calling for an "easy-money" policy. "What I'm saying is that we are coming to a time here where a change has to be made," he said, and Federal Reserve officials "have to be very sensitive . . . as to when is the proper time to change."

"In this flat period, or indeed if it is later determined that this is a recession . . . the Fed has to go countercyclical rather than pro-cyclical," Regan explained. "What I mean by that is that at times in the past it has seemed that in recessionary periods, at least for a while, the Fed has held on too tightly to the monetary reins. . . ."

"What we are trying to do this time, and I know the Fed is as sensitive to this as I am, is to anticipate that and not stay in a low [money] supply mode any longer than is necessary in the downturn."

Regan and other officials were demanding earlier this year that the Fed follow just such a tight-money course to slow inflation. But with interest rates still at levels so high that they are jeopardizing the administration's predicted economic recovery, worried administration economists want the Fed, one way or another, to get interest rates down and boost growth of the money supply.

Regan declined to say exactly how much of a change he wants in Federal Reserve policy, particularly whether he believes the central bank's targets for money growth for 1982 are too low. Federal Reserve officials have told Regan and his administration colleagues that the targets, designed to combat inflation, will not provide enough money to finance the sort of booming recovery the administration wants.

"I'm not going to try to tell the Fed, since I am secretary of the Treasury and they're an independent group, exactly what mechanisms to use in order to do this," Regan said in the interview Friday in a conference room next to his office at the Treasury. But the result, he said, "would be a sufficiency of money to enable the economy to recover nicely from its current flat period."

Regan acknowledged that financial market analysts, already upset by the possibility of very large federal budget deficits for several years to come, might react adversely to an easing of Federal Reserve policy. Rather than falling, interest rates might rise in anticipation of more inflation.

"The Fed's actions could be misinterpreted and that's the danger of their easing too quickly on money, or too much," he said. "We wouldn't want that."

But he said he thought the financial market is beginning to recognize the "flat period" the economy is in, and is becoming

more realistic about the possibility that the Fed will have to ease its money policies eventually.

The tight-money policy, along with expectations that inflation will begin to rise again, has kept interest rates unusually high even though the economy has been flat for the last eight months. The shortage and high cost of mortgage money have devastated the homebuilding industry. Many smaller businesses, including a significant number of automobile dealers, are going bankrupt because they cannot afford to borrow at such high rates to finance their inventories. Farmers borrowing against the sale of this year's crops have been hard hit, too.

Officially, the administration has not changed its forecast that the economy, after adjustment for inflation, will grow by 5.2 percent during 1982. And in the interview, Regan maintained that after three flat quarters in a row, including the current three months, "the recovery will start in the first quarter of 1982."

However, that forecast apparently has become conditional upon a shift in Federal Reserve policy, in Regan's opinion.

But while calling for an easier monetary policy, the Treasury secretary suggested that continuing economic weakness could lead the Reagan administration to propose an even tighter fiscal policy.

Less than two weeks ago, President Reagan proposed an additional \$13 billion in spending cuts for 1982 and \$3 billion worth of tax increases in an attempt to reduce what would otherwise be an estimated \$59 billion federal budget deficit. If a recession caused a large drop in revenues, or a significant increase in spending for unemployment benefits and similar programs, Regan said, more cuts might have to be made.

In addition, some forecasts, based on an expected weak economy, peg federal revenues for 1982 at \$15 billion or more below administration estimates. Of such predictions, Regan said, "If we are going to lose that amount, we'd have to take a very close look at other things. But I don't agree with that forecast."

Regan partly disagreed with economists who argue that it is counter-productive for the government to attempt to reduce a budget deficit which is a result of a recession that is lowering personal incomes and corporate profits.

Mr. SARBANES. Mr. President, I yield the floor.

HIGH INTEREST RATES ARE KILLING ECONOMIC RECOVERY

Mr. DODD. Mr. President, I am pleased to participate in this discussion of a phenomenon which, if continued unchecked, will dash any hope of economic recovery. For the week ending October 2, the average prime rate was in excess of 19 percent—6 points above the level of 1-year earlier. Ninety-one day Treasury bills were issued at over 14 percent—more than 4 points above those issued a year earlier. Average mortgage rates exceeded 18 percent—5 points over those of a year ago. Across-the-board, around the country, we are hearing an increasingly unified message from people in all walks of life—high interest rates are killing economic recovery.

Now, there are undoubtedly many who will argue that this is not a new problem, that various credit-sensitive industries have been hurting for several years, un-

der the policies of both Democratic and Republican administrations. Furthermore, individuals and businesses have suffered various adverse economic developments—high inflation, inadequate job creation, low-productivity growth, chronic trade deficits and so on. Consumers who have paid rising fuel, food, and health costs, young people who have sought employment and have been unable to find it, entrepreneurs who cannot acquire the capital to establish and continue operating productive enterprises, all experience firsthand the adverse effects of a sluggish economy and high interest rates.

As a new Member of the Senate, who sits on the Banking Committee, I have had the opportunity to examine, in detail, the impact of our present situation on the most credit-sensitive industry of all—the housing industry. The need for more adequate housing is unquestionable.

The present level of housing starts is not even adequate to meet one-half of the projected demand for housing in the 1980's. The combination of excessive purchase and financing costs has effectively eliminated over 90 percent of American families from the housing market. Unemployment in the construction industry is more than twice the national average. Construction and subcontracting firms are experiencing unprecedented rates of insolvency. According to the National Association of Homebuilders, this inactivity has cost the national economy \$223 billion since the beginning of the current housing downturn in 1978.

I mentioned the dilemma faced by the housing industry to make a point. But the damage caused by our present situation is by no means limited to the housing industry—it is merely most visible in that industry. Small businesses, farmers, the auto industry, and others are all feeling the crunch. Even governments find their expenditures pushed upward when interest costs rise.

The Reagan administration has announced, and so far, successfully secured the adoption of, an economic program which it claims will lower interest rates, lower inflation, accelerate real growth, and improve productivity. In general terms, this program consists of four components: Federal spending restraint, tax cuts, regulatory reform, and monetary "discipline." Not only does this program supposedly address our economic problems in a direct fashion, but it has an equally important objective: the elimination of negative expectations about our economic future. As investors and consumers gain confidence as a result of the Reagan program's adoption, they will supposedly behave in a manner which will lead to greater work effort, greater saving, and greater investment. However, this confidence, if it exists, has not become apparent in the stock and bond markets. I suspect that one major reason is that, when you look at the specifics of the program, the numbers simply do not add up. Direct revenue losses exceed spending reductions by roughly \$140 billion during fiscal years 1982 through 1984. Two-thirds of that revenue loss is attributable to tax cuts which will en-

courage immediate consumption, not saving. The multiyear quality of the Tax Act will lock us in to a fiscal policy that will severely hamper our ability to respond to sudden changes in the economic environment, such as an oil cutoff or crop failures. And inclusion of indexing, beginning in 1985, will all but guarantee continued large deficits into the foreseeable future.

The simple fact is that, while the administration continues to advocate both large deficits and tight money, the result cannot be anything other than high and rising interest rates. Simply put, the two most important components of the Reagan economic program—fiscal policy and monetary policy—are on a collision course, and the likely losers are the American people. If we are to avoid eventual economic disaster, something will have to give.

If we are to bring interest rates down in a timely manner, we will have to start by providing convincing evidence that huge deficits will not continue. We will not be able to provide credible evidence of fiscal responsibility as long as the present program remains in place.

All of us recognize the importance of keeping taxation and spending down to reasonable levels. But we have to recognize that, despite significant reductions in Federal spending, the Tax Act is excessive. The President erred in proposing, and Congress erred in accepting, tax rate reductions of that magnitude, and, in my view, we should face that fact. The sooner the better. It is tough to admit mistakes, I know. But I sincerely believe that the American people will think much more highly of this body if it recognizes its error and corrects it, in the national interest.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business.

WALTER JOSEPH STEWART

Mr. HUDDLESTON. Mr. President, the Senate recently passed Senate Resolution 214, which commends Joe Stewart for his contributions to the Senate over the last 30 years, and I can think of no one who deserves this honor more. He has served with distinction in every position he has held in the Senate, and although associated with the Democrats, he has been extremely helpful to Members on both sides of the aisle.

Joe's history in the Senate is an example of the American work ethic—he started at the bottom and worked tirelessly to make it to the top. I, personally, have a hard time picturing Joe as a page, but I have it on good information that that's how he started back in 1951. While putting himself through college and law school, he headed the staff of the Democratic Cloak Room and then moved to assistant secretary of the majority. He joined the professional staff of the Appropriations Committee before moving to the staff of my friend and

colleague from West Virginia in 1971. And as we all know, he has most recently served under Senator BYRD as secretary to the majority and minority. The rise of Joe Stewart through the ranks was no accident—it required long hours, dedication and loyalty, not to mention patience and determination.

We will all miss Joe—virtually none of us can remember the Senate without him—and it is not easy to replace someone who has worked so hard and dedicated so much of his life to this institution. I would like to take this opportunity to thank him for all of those years and for all the assistance he has provided me and my staff during my 9 years in the Senate. I wish him the best in his new career and am sure he will be as successful and effective in the private sector as he has been in the Senate.

TRIBUTE TO WALTER "JOE" STEWART

Mr. WILLIAMS. Mr. President, I should like to join my colleagues in thanking and praising Walter "Joe" Stewart for his dedicated and loyal service to the U.S. Senate. I have had the pleasure to work with Joe during my 23 years in the Senate, and I have marveled at his ability to perform every task that he undertook with utmost efficiency, whether he was monitoring floor proceedings, succinctly clarifying issues, or working out difficult compromises on controversial matters. Moreover, Joe is one of those rare individuals who has a keen understanding of the intricate processes of Congress, and his insight has proven to be invaluable to all Members of the U.S. Senate.

Joe's career has been mentioned countless times before, and deservedly so, but I would simply like to emphasize that his rise from a page, under the sponsorship of Senator Spessard Holland, to Secretary of the Majority, and later, Secretary of the Minority, illustrates Joe's mastery of any task that he has undertaken. In particular, his successive responsibilities as Secretary of the Majority and the Minority of the Senate required the energy and the diligence that only a person like Joe could muster. When the Senate was engaged in a rather lengthy session, Joe was always working behind the scenes to the very end.

Joe is the best example of a dedicated and effective public servant. He attacked every problem thoroughly and with genuine concern. I wish Joe all the best in his new endeavors. He will be missed very much by all of us.

WALTER JOE STEWART

Mr. MOYNIHAN. Mr. President, I am pleased to have this opportunity to commend and thank Joe Stewart for his 30 years of extraordinary service to the Senate. And, indeed, to our country. Through his work he has made my services in this body a pleasure and through his friendship he has made it a joy.

Joe shall long be remembered in this Chamber for his hard work and devotion to Members on both sides of the aisle. He began his career in the Senate

in 1951 as a page and in 1953 he graduated from page school as president of his class. He was soon appointed supervisor of the Democratic cloakroom and several years later he was appointed administrative assistant to the Secretary of the Majority—all the while Joe was attending undergraduate and law school. In 1971 he served as legislative assistant for Senator BYRD, and 6 years later, because the then Majority Leader ROBERT C. BYRD recognized talent when he saw it, Joe was appointed assistant to the majority leader for floor operations. In 1979 Joe was elected Secretary for the Majority of the Senate and served in that capacity until 1981 when he was elected Secretary of the Minority. Joe's activity transcended his involvement in Government. He worked tirelessly in restoring the Capitol to its former grandeur and in bringing Capitol Hill back to life as he puts it.

Mr. President, Joe Stewart's departure from Senate service will be a loss to us all. I have learned much from Joe over my years in the Senate—ranging from the complexities of party politics to the esthetics of Washington architecture—he gave me the watercolor of my Capitol Hill residence I so enjoy gazing at each morning. I shall miss him greatly and wish him much success in his new career. Judging from his sparkling past record, no doubt success will continue to be his.

PRESIDENT REAGAN'S STRATEGIC PROGRAM

Mr. THURMOND. Mr. President, I rise to express my support for President Ronald Reagan's strategic defense program, which is designed to regain and then maintain our Nation's strategic defense posture.

This program is a balanced, affordable and reasoned plan which increases our strategic defense in the near term and lays the groundwork for the necessary strength in the long term.

It adds power to each leg of our defense Triad. This is accomplished by building and deploying the MX for our land forces; building and deploying the B-1 bomber for our air forces, and improving the long range and cruise capability of our sea forces.

By greatly enhancing our strategic posture this program will rebuild our strategic security, while at the same time serving as a basis for any genuine arms reduction agreement with the Soviet Union.

Mr. President, I commend President Reagan for proposing these initiatives for strategic defense programs we have lacked in the past. We now have a viable strategic defense proposal. Further, I urge that Congress support this program and in so doing tell friend and foe that America stands ready to defend her vital interests.

These interim proposals recommended by the administration appear sound and will greatly improve our defense capabilities until decisions are made on the longer term and more permanent programs involved in rebuilding our strategic defense posture.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business.

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

Mr. BAKER. Mr. President, will the Senator yield to me for a brief moment?

Mr. MITCHELL. I yield to the majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that the remarks I am about to make and the request not be charged against time allocated to the Senator from Maine.

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

Mr. BAKER. Mr. President, I propose to ask unanimous consent that morning business be closed and all remaining unfilled special orders be vitiated at the conclusion of the remarks of the Senator from Maine.

Mr. MITCHELL. Mr. President, I inquire of the majority leader. It is my understanding that one or possibly two other Senators may wish to make brief remarks on the subject which I am now discussing relating to this legislation.

Will the leader object to amending his order so that they could, if they show up, make those remarks and then go into the recess?

Mr. BAKER. Yes, Mr. President, let me do it this way, then.

ORDER FOR RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Maine be granted control of time not to exceed 20 minutes in which he may yield to other Senators and at the conclusion of the remarks of the Senator from Maine, which includes yielding to any other Senator on this subject, that morning business be closed and the Senate then stand in recess until 2 p.m.

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

S. 1706—ACID DEPOSITION CONTROL ACT

(Introduced by Mr. MITCHELL, for himself, Mr. STAFFORD, Mr. CHAFEE, Mr. COHEN, Mr. DURENBERGER, Mr. HART, Mr. DODD, Mr. TSONGAS, Mr. RUDMAN, and Mr. DANFORTH.)

Mr. MITCHELL. Mr. President, I am today introducing legislation to address the acid rain problem.

As a Senator from Maine, I am deeply concerned about the adverse effects on our natural resources from acid rain.

We are confronted with an environmental problem which has not been completely defined but which is already of substantial dimensions.

Acid precipitation is, first and foremost, an environmental problem. But it is not a conventional problem capable of easy solution. Acid rain defies all of the premises on which our current air pollution policy rests.

It is confined to no single State;

Its effects occur great distances from its sources;

Its damage is silent and often invisible to the naked eye.

But the environmental damage already documented is very real and very great.

Hundreds of lakes and streams, once prized by sportsmen for their trout, bass, and salmon, can no longer support fish.

In the Adirondack Mountains of New York 212 lakes and 140 lakes in Canada are without fish. Another 48,000 Canadian lakes are seriously threatened. Studies in Pennsylvania show acidity has increased in 107 rivers. Fifty-eight percent of these show a decline in the number of fish species present. West Virginia trout streams and Minnesota lakes are threatened. The list goes on and on.

In the State of Maine the acidity of lakes has increased eightfold over the last 40 years. Native brook trout no longer reproduce in small lakes over 2,000 feet in altitude. Tributaries of at least five Atlantic salmon rivers are sufficiently acid to jeopardize young fish.

Destruction from acid precipitation is not limited to aquatic resources. Acid rain mobilizes aluminum and heavy metals such as lead, copper, and zinc from soils while leaching valuable nutrients. This phenomenon is thought to result in diminished forest productivity which, according to a recent Ohio River Basin energy study, may be as high as 5 percent.

Scientists have detected a 45 percent decrease in the density of Red Spruce in Vermont with increasingly acidic soils.

As we in New England learn more about acid rain, we become increasingly concerned. Our land and our water are our livelihood, through forestry, fishing, agriculture, and tourism. We have long recognized the irreplaceable nature of our resources, and have treated them as valuable, not disposable, commodities.

Our efforts are not enough. Pollution from hundreds of miles away now threaten our air, land, and water resources, and we are powerless to prevent it.

We are alarmed by environmental damage trends from acid rain. They have potentially devastating consequences for our national economy, and in particular the areas of the country sensitive to acid precipitation. The extent of this threat is illustrated by the following:

Acid precipitation is thought to cost \$250 million annually in damages to lakes and streams east of the Mississippi.

It has been estimated that the economic effect of acid precipitation on existing economic activities in the Eastern United States was \$5 billion in 1978.

Approximately \$1.5 million in angling revenue is lost each year in just the Adirondacks.

These figures are of deep concern to us in Maine where recreational fishing is critically important. Over 300,000 recreational fishermen enjoyed Maine's lakes and streams last year. Almost one out of every five Maine citizens purchased a fishing license last year. An additional 60,000 out-of-State anglers were attracted to Maine's lakes. Not only is this of great recreational importance, but the sporting industry is important to our economy. Maine's sporting industry generated almost \$6 million in revenues last year. The State has spent \$1.6 million

to increase recreational fishing opportunities for Maine's sportsmen. A large portion of this is used for salmon and trout restoration projects.

It is clear that the health of Maine's recreational fishing industry has been and continues to be one of the highest priorities in our State. For this reason, I think that we must be aware of the potentially devastating effects of acid rain on our fisheries, a problem which could reverse all of the efforts we have made to develop and protect them.

Acid rain could cost \$1.75 billion annually in lost forest productivity. This would have devastating effects on Maine's economy. As I am sure you all know, we are the most heavily forested State in the Union, with about 90 percent of the State covered by forests. Our wood resources are without question the single most important component of the State's economy. Fully 30 percent of all manufacturing jobs in Maine are in the pulp and paper or wood and lumber resources industry. Those industries combined produce better than \$2½ billion worth of products, which is 43 percent of the value of all products produced in Maine. If in fact acid rain does cause a reduction in forest growth, it could have a profound effect on Maine's entire economy.

The third dimension of the acid rain problem is its international implications. The large quantities of acid rain generated in the United States and exported to Canada are severely straining United States-Canadian relations. We are neighbors and friends. Our relationship spans more than a century, and is based in part on a common stewardship of one of the richest land masses in the world.

But unless the United States reduces its large contribution to Canadian acid rain levels, the historic relationship between our two countries will be sorely tested, by a problem which the people of my State, and the rest of the Northeast, are not responsible.

Prime Minister Trudeau has made Canada's concerns known to President Reagan more than once. The President has stated that he is committed to solving the problem.

The United States is also bound by the Memorandum of Intent we entered into with Canada in August of 1980. We have committed to combat transboundary air pollution by the development and legislative enactment of domestic air pollution control strategies and by vigorous enforcement of existing laws.

There is no evidence to date that the United States is living up to those commitments. I am today stating my resolve to fulfill them.

I think when the U.S. Government gives its word to another government, when the President of the United States gives his word to the head of a foreign government, that our Government and our President ought to keep their word, and I urge all my colleagues to join me in this endeavor.

My legislation will provide a reasonable and effective solution to the acid rain problem.

The bill establishes a 31-State acid deposition impact region consisting of all States east of or bordering the Mississippi River. In this geographic region is generated 80 percent of sulfur dioxide in the country. It is this region that is also receiving rainfall 20 to 40 times more acidic than normal rainfall.

The bill sets forth two complementary policies.

The first deals with the short run. The bill places a cap on existing sulfur oxide and nitrogen oxide emissions. Emissions would not be permitted to increase over the levels that existed on January 1, 1981. This is a reasonable approach. In the face of growing evidence of natural resource damage from acid deposition, certainly it is the better course of wisdom not to make the problem worse. Emissions have, in fact, been on the increase in 1981. During the first 6 months of this year, the Environmental Protection Agency approved relaxations for 23 sources, most of them in the Midwest, resulting in the emission of an additional 50,000 tons of sulfur dioxide annually. Another 11 applications for relaxations totaling 30,000 tons of sulfur were still pending at that time.

We must remember that the dead lakes, the dying fish, the stunted crops, have resulted from current levels of acid deposition. We are not dealing with projections about what might happen. We are talking about what has happened.

The second goal of this bill is an actual reduction in regional sulfur dioxide emissions over the longer run.

This policy is grounded upon the judgment that we know enough now to act.

One of the arguments against doing anything now is that we do not know enough about the problem, we ought to study it for 5 or 10 or 15 years more. This is obviously not the case.

As the National Academy of Sciences, an independent scientific body of impeccable credentials and national prestige, stated just last month, and I quote from the report of the National Academy of Sciences:

The Committee believes that continued emissions of sulfur and nitrogen oxides at current or accelerated rates, in the face of clear evidence of serious hazard to human health and to the biosphere, will be extremely risky from a long-term economic standpoint as well as from the standpoint of biosphere protection.

Of the options presently available only the control of emissions of sulfur and nitrogen oxides can significantly reduce the rate of deterioration of sensitive freshwater ecosystems . . . In the most seriously affected area . . . this would mean a reduction of 50 percent in deposited hydrogen ions. Control of SO₂ from new electrical generating plants alone would be insufficient to accomplish this, and thus restrictions on older plants must be considered.

Accordingly, Mr. President, I propose a 10-million-ton reduction of sulfur dioxide emissions in the acid deposition impact region over a 10-year period. This is approximately 40 percent of total sulfur emissions in the region now, from all stationary sources.

This magnitude of reduction is necessary to protect our resources and avoid

the costs incurred from their damage or loss. The extent of the resources at risk—both their inherent value and their economic worth—is incalculable. Once lost, our lakes, our forests, our soils, cannot be replaced. And some of those resources have already been lost.

By cutting sulfur loadings significantly, we can buy some additional time to perfect our knowledge which is admittedly imperfect. It has been suggested that we should not act at all because our understanding of the acid rain phenomenon is incomplete.

I take a different view—that for a reasonable investment, we can protect the resources whose buffering capacity has been reduced but not exhausted. I believe it is our responsibility to make such an investment while we still can.

The contribution of each of the 31 States to the total sulfur emissions in the region is unequal. My bill reflects that, and seeks to apportion cleanup responsibility accordingly. Each State will be required to contribute to the 10-million-ton reduction. But each State's share of the reduction will be in proportion to its contribution to the total sulfur emissions in the region.

I have no desire to point a finger at any State. I am simply looking at the facts. Some States contribute more sulfur to the region than others. That is the extent to which they must clean up. To look at the situation any differently would be inequitable. The States of the Northeast have few emissions. Their utilities and industries have cleaned up, and have paid dearly for that cleanup. They cannot in fairness be asked to shoulder a disproportionate share of the cleanup task that remains. In addition, they are already unfairly burdened with the costs of damage to their resources from pollution outside their boundaries.

Under my bill, the States will have the primary responsibility for implementing their required sulfur reductions. Each State will be free to allocate the reductions among sources. Maximum flexibility will be given to States and sources to comply in the most cost effective manner possible.

Mr. President, this will undoubtedly cost something. But we must keep the cost figures in perspective. The fact of the matter is there is now an existing, and there has been for years, cost of damage to our natural resources, and those costs are as real even though not as easily documented as control costs.

States will have 2 years to devise their emission reduction plans. In the event that a State does not avail itself of this opportunity, the equivalent of a uniform emission limit for all major utilities in the State will become effective. Again, flexibility is provided. Each utility must achieve the equivalent of a 1.2 per pound per million Btu emission limit. This reduction can be achieved by any variety of controlled trading.

The costs of achieving a 10-million-ton reduction in sulfur oxide emissions have been estimated to be approximately \$2.8 billion annually for strategies similar to my legislation. There is an important difference however. This cost fig-

ure is derived from an analysis which assumed compliance in 1985, while the deadline contained in my bill is 10 years after enactment, a considerably longer period. The additional flexibility provided by the longer compliance period will reduce the cost.

These figures must be kept in perspective. While I do not consider the cost of this acid precipitation strategy insignificant, neither do I consider the costs of damage to our natural resources insignificant. We must not forget that those costs are as real, if not as easily documented yet, as control costs. In fact, if present trends continue, the damage costs may become an order of magnitude greater than control costs.

Another measure of these costs is the increase in electricity rates. For a 10-million-ton reduction strategy with a 1990 compliance deadline, the average increase across the 31-State acid rain impact region would be approximately 2 percent. This does not appear unreasonable to me, when the value of the resources at risk is taken into account.

However, I am today requesting the Joint Taxation Committee to analyze my bill and suggest tax and other financial assistance that could minimize further the costs of control required by this legislation. I will also be seeking such advice from other Government and industry analysts.

I urge my colleagues to keep in mind that damage, in environmental and economic terms, has already occurred. If the sources of acid rain are merely studied for another 5 or 10 years, the natural resources of many States, as well as their economies, may be irrevocably damaged.

We know enough to make it clear that we must act. The only question is whether we have the political will to do so.

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

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

S. 1706

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 "Acid Deposition Control Act."

Sec. 2. Title I of the Clean Air Act is amended by adding the following new part:

"PART E—INTERSTATE TRANSPORT AND ACID PRECURSOR REDUCTION

"FINDINGS AND PURPOSES

"Sec. 180. (a) The Congress finds that: (1) the long range transport of pollutants and their transformation products is an interstate and international problem;

(2) current levels of emissions of air pollutants from existing sources as well as increased emissions from new existing sources threaten public health and welfare and the environment in States and countries other than those in which emitted;

(3) reduction of total regional atmospheric loading of pollutants such as sulfur oxides and nitrogen oxides will enhance protection of public health and welfare and the environment;

(4) more effective regulation of the interstate transport of air pollutants is need-

ed in order to protect the health and welfare of the citizens of downwind states and the economic growth opportunities of downwind states; and

"(5) in particular,

"(A) the deposition of acid compounds from the atmosphere is causing and contributing to widespread long-term ecosystem degradation;

"(B) the principal source of the acid compounds in the atmosphere, and their precursors, is the combustion of fossil fuels;

"(C) the problem of acid deposition is of national and international significance and cannot be addressed adequately without Federal intervention;

"(D) control strategies and technology for precursors to acid deposition exist now that are economically feasible; and

"(E) current and future generations of Americans will be more adversely affected by delayed action, so that efforts to remedy the problem should commence now.

"(b) The purposes of this part are to:

"(1) protect health and welfare and the environment from any actual or potential adverse effect caused by ambient concentrations or deposition of air pollutants, including the products of atmospheric transformation of pollutants; and

"(2) preserve the rights and responsibilities of States to protect the public health and welfare and the environment of their citizens from air pollution originating in other States.

"ESTABLISHMENT OF REGION

"Sec. 181. (a) There is hereby established a long range transport corridor, hereafter referred to as the 'acid deposition impact region,' consisting of the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin and the District of Columbia.

"(b) The Administrator shall conduct a study of air pollution problems associated with long range transport of pollutants in the portions of the continental United States not included in (a) of this section. Not later than two years after the enactment of this section, the Administrator shall report to the Congress the results of such study.

"ACID PRECURSOR CONTROLS

"Sec. 182. (a) Emissions of sulfur dioxide and of oxides of nitrogen from stationary sources in the acid deposition impact region established under section 181(a) of this Act shall not be allowed to increase over the total actual emissions of each pollutant in such region as of January 1, 1981. No major stationary source in such region shall significantly increase its emissions of sulfur dioxide or of oxides of nitrogen, unless there has been identified for such source in accordance with section 185 of this Act a net reduction in emissions of such pollution at one or more points in such regions in excess of the proposed increase in emissions, and not otherwise required by a State implementation plan under section 110 of this Act or under sections 183 or 184 of this Act.

"(b) There shall be achieved a reduction in annual emissions of sulfur dioxide in the acid deposition impact region established under section 181(a) of this Act of 10,000,000 tons from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980. Such reduction shall be achieved pursuant to a phased reduction and completed no later than ten years after the enactment of this part.

"STATE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"Sec. 183. (a) (1) Each State shall be required to achieve within its borders a reduction in annual sulfur dioxide emissions equal to that fraction of 10,000,000 tons which is the ratio of all the actual utility emissions in such State in excess of 1.2 pounds of sulfur per million British thermal units to the total in all States in the region of all the actual utility emissions in excess of 1.2 pounds of sulfur per million British thermal units.

"(2) The Governors of any two or more States within the region may by agreement reallocate among agreeing States the reductions required under (a) (1) provided that the total reductions equal the total required under (a) (1).

"(b) (1) Not later than two years after the enactment of this part, each State shall adopt enforceable measures to achieve the reduction in sulfur dioxide emissions required by subsection (a) of this section, including emission limitations and schedules for compliance for sources within such State and other means of emission reduction in accordance with section 185 of this Act. The Governor of such State shall submit such measures to the Administrator for review in accordance with paragraph (2) of this subsection, and to the Governors of all other States in the acid deposition impact region for comment.

"(2) The Administrator shall approve within four months such measures submitted under paragraph (1) of this subsection if, taking into consideration the comments of Governors of other States in such region, the Administrator finds that such measures (A) contain enforceable requirements for continuous emission reduction, (B) contain requirements for monitoring by the source and enforcement agencies to assure that the emission limitations are being met, and (C) are adequate to achieve the required reduction in sulfur dioxide emissions for such State within the time specified in section 182(b) of this Act.

"(3) Each emission limitation, schedule for compliance or other measure adopted and approved under this subsection shall be deemed a requirement of the State implementation plan approved or promulgated for such State under section 110 of this Act.

"MAJOR STATIONARY SOURCE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"Sec. 184. In any State in the acid deposition impact region established by section 181(a) of the Act which has not in accordance with section 183(b) (1) of this Act adopted measures to achieve the reduction required by section 183(a) of this Act within two years after enactment, or which has not had such measures approved by the Administrator under section 183(b) (2) of this Act within two years and four months after enactment of this Act, the owner or operator of each fossil-fuel burning electric generating facility which is a major stationary source which is not subject to section 111(a) shall comply with an emission limitation or limitations for all such facilities owned or operated by the same entity equivalent to an average among such facilities of 1.2 pounds of sulfur per million British thermal units on a 30-day average. The owner or operator of each such facility shall submit to the Administrator a plan and schedule of compliance for achieving such emission limitation or equivalent emission reduction in accordance with section 185 of this Act, not later than three years after the enactment of this part. The Administrator shall approve such plan and schedule for compliance if it (A) contains enforceable requirements for continuous emission reduction, (B) contains requirements for monitoring by the source and enforcement

agencies to assure that the emission limitations are being met, and (C) will achieve the emission reduction required by this section at the earliest practicable date, but no later than ten years after the enactment of this part. Failure of such owner or operator to submit such approvable plan and schedule within three years after enactment of this part, failure to comply with the plan and schedule of compliance, and failure to achieve the emission reduction required by this section at the earliest practicable date, but no later than ten years after enactment of this Act, shall be violations of emission limitations for the purposes of sections 113, 120, and 304 of this Act.

"ENFORCEABLE EMISSION REDUCTION PROGRAMS

"Sec. 185. (a) For the purposes of maintaining the limitation on emissions required by section 182(a) of this Act or attaining emission reductions required by sections 182 (b), 183, or 184 of this Act, the following methods or programs for net emission reduction may be used by a State or the owner or operator of a source, if emission limitations under such methods or programs are enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304 of this Act:

"(1) least emissions dispatch to meet electric generating demand at existing generating capacity;

"(2) retirement of major stationary sources at an earlier date than provided in schedules on file with the Federal Energy Regulatory Commission, the Internal Revenue Service, or State utility regulatory agencies;

"(3) investments in energy conservation where reductions in emissions can be identified with such investments;

"(4) trading of emission reduction requirements and actual reductions on a State or regional basis, for which States and the Administrator are authorized to establish emission reduction banks or brokerage institutions to facilitate such trading;

"(5) precombustion cleaning of fuels.

"(b) A State or the owner or operator of a source required to achieve emission reductions under sections 182, 183, or 184 of this Act may substitute reduction in emissions of oxides of nitrogen for required reductions in emissions of sulfur dioxide, at a rate of two units by weight of oxides of nitrogen for each unit of sulfur dioxide."

Sec. 3. Section 110(a)(2)(E) of the Clean Air Act is amended by inserting after "visibility," the following: "or (III) contribute to atmospheric loadings of pollutants or their transformation products which may reasonably be anticipated to cause or contribute to an adverse effect on public health or welfare or the environment in any other State or foreign country."

Mr. MITCHELL. Mr. President, I yield to the Senator from Rhode Island.

Mr. CHAFEE. I thank my colleague from Maine.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am delighted to be introducing legislation with my esteemed colleague from Maine, Senator MITCHELL, which addresses one of the most complex environmental problems we are facing today—the phenomenon known as acid rain. As a Senator from a State in the Northeast—an area which finds itself downwind from much of the air pollution generated in the Midwest—I am deeply concerned with this problem.

Over the past several years, an enormous amount of research has been com-

mitted to this problem, and the causes and effects of acid rain have been heatedly debated. In light of the evidence presented thus far, I think it is time we begin taking steps to curb the devastating effects of acid rain.

Acid rain results from oxides of sulfur and nitrogen reacting with water vapor in the atmosphere. These pollutants are produced primarily by the combustion of coal in powerplants, and in other industrial processes.

The oxides are released into the atmosphere and are chemically transformed into nitric and sulfuric acids. They can be carried hundreds, even thousands, of miles across State and international borders before they eventually return to Earth in rain or snow. As a result, many areas in the Northeastern United States and eastern Canada are being pelted with rain that has been estimated to be 20 to 40 times more acidic than "natural" rainfall. This phenomenon has had a far-reaching effect on the environment and the economies in these areas.

For geologic reasons, these areas receiving acid rain often lack natural neutralizing minerals, such as limestone, to counter or buffer the acids. Lakes which get a heavy dose of acid, particularly during the spring run-off from melting snow, have no means of recovering naturally. It has been estimated that acid rain has wiped out fish populations in 212 lakes in the Adirondack region of New York, and other States in the Northeast are suffering from similar effects as well. Canadian officials believe that between 2,000 and 4,000 lakes in Ontario are similarly dead, and that tens of thousands more could meet the same fate. Since the U.S. exports far more sulfur dioxide and nitrogen oxide to Canada than it receives, our failure to curb acid rain could seriously strain United States-Canadian relations.

There is also considerable evidence that acid rain mobilizes elements locked into minerals in the soil and lake bottom sediments, including aluminum and other heavy metals. It appears that the sudden increase in these concentrations is a major cause of damage to fish populations. Acid rain can also decrease forest and crop growth through leaf damage, disfigurement and the leaching of nutrients from the soil.

Mr. President, the legislation we are introducing today is a first step toward combating the acid rain problem. The bill establishes a three-State acid precipitation impact region consisting of all States east of the Mississippi River plus Minnesota, Iowa, Missouri, Arkansas, and Louisiana. Sulfur dioxide and nitrogen oxide emissions in the region shall not be permitted to increase over the total emissions inventory as of January 1, 1981. The region shall achieve a 10 million-ton reduction in annual sulfur dioxide emissions 10 years after enactment through the use of enforceable emission reduction programs such as least emissions dispatch, banking, early retirement of sources, energy conservation, and precombustion cleaning of fuels.

The required reduction from each State shall be the percentage of the total reduction which is the ratio of such State's actual SO₂ emissions to total actual SO₂ emissions in the region. Emissions from sources that currently emit no more than 1.2 pounds of SO₂ per million Btu shall not be counted in these inventories. Additionally, Governors of two or more States may agree to alter their respective shares of the reduction.

The legislation provides the States with the flexibility they need to meet these requirements. Two years after enactment, each State shall determine how its SO₂ reduction shall be accomplished through emission limits on stationary sources of SO₂. If, however, a State does not draw up an emission reduction plan within this specified time period, the SO₂ emission limit for each major source within the State shall be no greater than 1.2 pounds of SO₂ per million Btu.

Although this legislation is geared to reducing emissions in the Eastern United States, where acid rain has caused the greatest damage, we also recognize that this is truly a national problem. Therefore, the bill also requires the Administrator of the Environmental Protection Agency to study the impact of acid rain in the Northwest, Great Plains, and Southwest regions of the country and report back to Congress within 2 years.

Mr. President, I believe this legislation is a move in the right direction in addressing the acid rain problem. As you know, the Environment and Public Works Committee is in the throes of reauthorizing the Clean Air Act. Throughout the summer, we have had some 23 days of hearings. If there is one thing I think the committee has learned, it is that our clean air program is not working as smoothly as it should and I am hopeful we can fine-tune some of the program's most burdensome requirements.

It is not the purpose of this legislation to create additional redtape and needless burdens for industry. But it is important to recognize that this bill is a starting point from which we can begin to solve the problem of acid rain. As the Environment and Public Works Committee moves forward with the reauthorization of the Clean Air Act and addresses the acid rain problem, I am sure we will hear from those who have a stake in the legislation being introduced today. I will be listening to their concerns.

Mr. President, this legislation has been formulated on strong scientific data. A major study of the acid rain problem concluded just last month by the highly-respected and objective National Academy of Sciences concluded that:

The committee believes that continued emissions of sulfur and nitrogen oxides at current or accelerated rates, in the face of clear evidence of serious hazard to human health and to the biosphere, will be extremely risky from a long-term economic standpoint as well as from the standpoint of biosphere protection. Of the options presently available, only the control of emissions of sulfur and nitrogen oxides can significantly reduce the rate of deterioration of sensitive freshwater ecosystems. . . . In the most seriously-affected area . . . This would mean a reduction of 50 percent in deposited hydrogen ions.

Control of SO₂ from new electrical generating plants alone would be insufficient to accomplish this, and thus restrictions on older plants must be considered.

I would like to point out this legislation proposes a 10-million ton reduction of sulfur dioxide emissions in the 31-State region within a 10-year period. This is about 40 percent of total sulfur emissions presently emitted in the region from stationary sources.

Finally, Mr. President, I would like to note that a large majority of the American people support continued strong environmental protection even if it requires some economic sacrifice. A recent New York Times/CBS poll released Sunday found that more than two out of three surveyed agreed that "we need to maintain present environmental laws in order to preserve the environment for future generations." When questioned specifically about keeping current air pollution laws as tough as they are—even if some factories were to close as a result—nearly two-thirds said they would keep the law tough.

● Mr. HART. Mr. President, I am pleased to join Senator MITCHELL and others in the introduction today of the Acid Deposition Control Act.

Acid rain is one of the most disturbing of all environmental problems we face. It sounds like a science fiction nightmare: the very rain itself carries invisible gases which kill plant and animal life. Yet that is what is happening, not just in Canada and our Northeast, where the problem is most serious and most widely known, but also in the Rocky Mountain West and throughout the United States.

Acid rain is a particularly alarming confirmation of the old adage that what goes up must come down. But, with acid rain, what comes down is much worse than what went up.

Acid rain, acid snow, and dry deposition—in which acids settle out of the air by gravity instead of being washed out of the air by precipitation—are all indirect consequences of the burning of fossil fuels. The combustion produces sulfur dioxide (SO₂) and nitrogen oxides (NO_x). These gases can then be carried by the prevailing winds for hundreds of miles in the upper atmosphere. During this journey, the gases combine with other chemicals in the atmosphere and undergo transformations which produce sulfuric acid and nitric acid. These acids, now often hundreds of miles from their points of origin, are washed out of the air by rain or snow or settle out by gravity.

Acid rain causes a wide variety of environmental problems. The most widely known effects of acid rain are caused by the accumulation of acidity in lakes. The acidity itself can keep fish from breathing and reproducing naturally. The acid in the rainfall can also cause mercury and other heavy metals to leach from the soil into watercourses, where they are consumed by fish and other aquatic organisms, and can be accumulated higher up in the food chain. Acid rain also impairs the growth of some types of trees and agricultural crops.

And acid rain can destroy statues, buildings, and other structures.

There is no conclusive evidence yet that acid rain affects human health, but there is reason for concern about the effects of either breathing acidic mists or eating fish containing mercury or other heavy metals washed out of the soil by acid rain. The Canadian Government has found that over half of a sample of 700 Indians in the Hudson and James Bay watersheds, with diets relying primarily on fish, have higher levels of mercury than is normal.

Since acid rain is by far the most serious new air pollution problem to emerge since Congress last revised the Clean Air Act, the National Commission on Air Quality carefully studied the problem. Based on our studies, the Commission adopted 32 separate findings on acid rain. Taken as a whole, our findings amount to an unequivocal confirmation that acid rain is manmade, and is a serious and growing environmental problem. The highlights of the Commission's recommendations include:

The long-range transport of air pollutants particularly of pollutants contributing to acid deposition, has become an international concern. The Canadian Government regards acid deposition as its most critical environmental problem. The U.S. exports about four times as much sulfur oxides to Canada as it imports from that country.

In the early 1950's, scientists related acid deposition to chemical and ecological changes in rivers and lakes in Scandinavia. Acid deposition also may damage the productivity of crops and forests by leaching important elements in compounds from plants and soils, increasing vulnerability to plant pathogens, and increasing susceptibility to drought. Forests in areas with acid-sensitive soils—that is, eastern Canada—are considered particularly vulnerable. Acid deposition has also been linked to damage of building materials, painted surfaces, and statues.

Acidity and toxic substances—for example, heavy metals—have been observed to increase in many lakes and rivers, particularly in New England and southeastern Canada, over the past several decades. Increased acidity in rivers and lakes not naturally acidic adversely affects the hatching of fish and the ability of young fish to survive. The sudden injection of acid, such as during the spring thaw from accumulations in winter snows, can kill even mature fish.

Increased acidity has resulted in more than 100 fishless lakes in the Adirondack area of New York, more than 140 fishless lakes in the Canadian Province of Ontario, and more than 15,000 fishless lakes in Sweden. Several thousand lakes in Minnesota and Wisconsin and 48,000 lakes in the Province of Ontario alone are considered susceptible to increased acid levels.

The most likely source of increased river and lake acidity over a relatively large geographic area, such as New England and southeastern Canada, is atmospheric deposition of acid material through both dry and wet processes.

One mechanism of atmospheric deposition, acid precipitation, has been observed over a large portion of the Eastern United States for the past 25 years.

Analyses of the chemical composition of acid precipitation over the Eastern United States indicate the dominance of ions found in sulfuric acid and nitric acid; preliminary analyses of acid precipitation in the Western United States suggest the dominance of ions found in nitric acid. The precursors to the formation of sulfuric acid and nitric acid in the atmosphere are sulfur oxides—mostly as sulfur dioxide—and nitrogen oxides.

Although acid rain is one of our most serious air pollution problems, it is not controlled directly under the current Clean Air Act. As now written, the act is based upon programs within each State to control sources within that State to meet air quality goals in that State. This scheme does not prevent acid rain, which does not respect State boundaries. In fact, to meet local air quality goals, some plants and factories use tall smokestacks to disperse their pollution—thereby adding to the long-range transport of pollutants which cause acid rain.

One the most important recommendations made by the National Commission on Air Quality is for additional controls on sulfur dioxide emissions to curtail acid rain. The Commission recommended that Congress should require a significant reduction by 1990 in the current level of sulfur dioxide emissions in the Eastern United States. The Commission's recommendation left to Congress the determination of the actual level of the significant reduction to be required and the measures to be required to bring about that reduction.

The Acid Deposition Control Act would implement this Commission recommendation. The act would require the States east of the Mississippi River to reduce their total sulfur dioxide emissions by 10 million tons from the amount of SO₂ they emitted in 1980. This reduction shall be accomplished within 10 years after enactment of the Acid Deposition Control Act. Each State east of the Mississippi shall be free to determine its own plan for reducing SO₂ emissions from sources within its borders, so long as the State plan contributes an adequate share to the overall reduction. Each State's share of the overall 10-million-ton reduction will depend upon the amount of utility emissions in excess of 1.2 pounds of sulfur per million Btu from utilities within that State. If a State fails to adopt a SO₂ reduction plan within 2 years, then utilities within that State would be subject to a Federal limit of 1.2 pounds of sulfur per Btu.

To increase the flexibility of this plan, individual States would be free to trade the amount of SO₂ reduction required of them, and may reduce 2 pounds of NO_x instead of 1 pound of SO₂.

This plan is consistent with the recommendation of the National Governors Association. The Governors support a program to control acid deposition involving the designation by Congress of a

control region in which the States should be granted a reasonable period of time to reach agreement on reducing the long-range transport of air pollutants. If the concerned States failed to reach such an agreement, the EPA should be authorized to take specific appropriate action.

This control of sulfur dioxide will not be easy, and it will not be cheap. But it can be done, and it must be done if we are to end the devastation of acid rain.

As important as the control of sulfur dioxide in the Eastern United States is, we should not delude ourselves that this step alone can solve our acid rain problems. While SO_2 is the primary cause of acid rain in the Eastern United States, nitrogen oxides are also important contributors, and strict controls on NO_x —especially on mobile sources of NO_x —will continue to be essential. In particular, it is crucial that Congress retain the current automobile NO_x emission standard of 1 gram per mile.

The SO_2 reduction program contained in the Acid Deposition Control Act only applies to the Eastern United States. This is appropriate, since North America's most severe acid rain problems are caused by SO_2 emissions east of the Mississippi. However, we must not overlook the recent and growing evidence of acid rain in the West, especially in the Rocky Mountain States. The Environmental Defense Fund has recently completed a survey of 10 research projects now underway on acid rain in the West. That survey, which I shall ask unanimous consent to include in the RECORD at the end of my remarks, shows preliminary agreement by the different researchers that:

Acid rain has been discovered at several points throughout the Rocky Mountain region;

The acid rain is worse at higher elevations;

The acidity of the precipitation is increasing; and

The acid rain is caused by human activity, not natural causes.

While this research is too preliminary, and the acid rain which has been discovered is too limited, to support now a major acid rain control program like that which the Acid Deposition Control Act would establish in the Eastern United States, the research does underscore the need for additional investigation. The Acid Deposition Control Act addresses this need by requiring the Environmental Protection Agency to report to Congress on acid rain in the West.

The survey follows:

"ACID RAIN" RESEARCH IN THE INTERMOUNTAIN WEST

INTRODUCTION

Much speculation has been raised regarding the occurrence of "acid rain" in the western United States. In an effort to determine the extent of the "acid rain" phenomenon in the Rocky Mountain region, the Environmental Defense Fund conducted a telephone survey of researchers who are actively collecting field measurements of acidity in precipitation or in lakes and streams in a number of locations in the region. Those currently conducting research were identified by a preliminary literature search and

by referral from state and federal environmental agencies. The list of researchers contacted may not be exhaustive, but the work being done by those reported here is sufficiently broad-based to allow some important, although limited, conclusions about the occurrence of acid deposition at a number of locations in the Rocky Mountain region.

Those contacted were asked to identify the locations and duration of sampling efforts, whether sampling conducted to date showed acidity levels below "normal" (considered to be pH 5.6), and what conclusions, if any, could be drawn from the data collected to date. EDF did not request data unless a written report of a project was publicly available. EDF did not attempt to verify any conclusions related by any researcher contacted. Some researchers indicated that the conclusions they offered are tentative, and are subject to further analysis.

The survey was conducted by Adam Babich. This report was prepared by Mr. Babich and edited by Robert Yuhnke, EDF's Regional Counsel. Dr. Michael Oppenheimer, an atmospheric physicist conducting acid rain research in EDF's New York office, contributed to Section IV, EDF's Evaluation of the Results in Light of Recent Scientific Literature on Acid Rain.

I.—SUMMARY OF CONVERSATIONS WITH RESEARCHERS CONTACTED

A pattern emerged from the conversations with the researchers who were contacted. Three limited, although important, conclusions were commonly expressed among most of those contacted.

1. Acid precipitation, i.e., precipitation with an average pH less than 5.6, is being measured at widely scattered points in the Rocky Mountain region.

2. The incidence of acid precipitation events, or the degree of acidity, or both, is greater at higher altitudes (above 7,500 feet).

3. Two studies show trends toward increasing acidity in precipitation. (Lewis and Grant)

4. One study shows a trend toward increasing acidity in high altitude lakes. (Flat Tops Lake Study, Lewis and Grant)

5. There was general agreement that high acidity is attributable to human activity, and not natural causes.

6. All researchers agreed that insufficient sampling is being conducted in the West to determine gross rates of acid deposition or the sub-regional distribution of acid deposition in the West.

II.—STUDIES OF ACID DEPOSITION IN THE MOUNTAIN STATES

Most precipitation monitoring in the mountain states (Colorado, Wyoming, Montana, Idaho, New Mexico) has been conducted for only a few years. As a result, few of the precipitation studies reported to EDF demonstrate trends which allow conclusions to be drawn regarding whether rates of acid deposition are increasing or have stabilized. Precipitation analysis is only one way to study acid rain. Other techniques include the analysis of lake and snowmelt water, snowpack core studies, glacier core studies and biological studies. The biological studies involve the identification and monitoring of acid-sensitive species of plants and animals.

Acid deposition is being studied in the Rocky Mountains by various organizations including: the National Atmospheric Deposition Program (NADP), the United States Geological Survey (USGS), the Fish and Wildlife Service (FWS), the National Park Service (NPS), the National Center for Atmospheric Research (NCAR), and various university groups.

The National Atmospheric Deposition Program

The NADP is probably the most promising source of precipitation data in the mountain

states. Monitoring sites are run by individual participants in the program including the National Park Service (NPS), the Bureau of Land Management (BLM), the National Oceanic and Atmospheric Administration (NOAA), and Colorado State University. Standard collection procedures are followed by all sites and all samples are analyzed by the Illinois State Water Survey in Champaign, Illinois. A 10-year program is anticipated which should result in sufficient data, collected and analyzed by uniform procedures, to establish trends. The NADP operates about 88 monitoring sites nationwide. There are 10 in the mountain states, five of these in high altitudes. Another four or five sites are expected to be added shortly.

The U.S. Geological Survey

The USGS has been running precipitation monitors in Idaho and Montana in connection with studies of the Mount St. Helens eruption. Five collection sites were originally used in Idaho; of these, two are left in Sand Point and Moscow. It is anticipated that these will eventually become part of the NADP network. There are two sites in Montana; these and the Idaho sites use equipment and methodology that is essentially the same as that utilized by NADP.

In addition, USGS runs three collection sites in Colorado and will add four more. These sites are located in high altitudes and will be used to assess the impact of the oil shale industry on Rocky Mountain precipitation. The USGS has also been conducting snowpack samples in the Rocky Mountains for about two years.

In New Mexico, USGS has been testing samples of runoff from undeveloped watersheds since the 1960s. In Wyoming, a study of the effects of rainfall chemistry on aquatic life is being proposed.

The Fish and Wildlife Service

The Fish and Wildlife Service has just received funding for a major study assessing the impact of acid deposition on the Rocky Mountain system. The study is expected to last about 18 months and is being conducted by acid rain experts from the east coast as well as from the West. The Rocky Mountain Assessment study which will utilize data collected by NADP is the most important and far-reaching study being conducted in this area.

Other studies

The National Park Service is conducting a study of changes in high elevation lake chemistry due to acid precipitation. NCAR is coordinating a project to collect cloud water in Montana to determine the acidity of precipitation before it falls through alkaline aerosol.

The National Soil Survey Laboratory in Lincoln, Nebraska is analyzing snowpack samples from Colorado. They are setting up for what will be a long-term study.

Carol Baird of the University of Wyoming has done some precipitation monitoring as part of a thesis on precipitation chemistry. Lewis and Grant of the University of Colorado have been measuring the acidity of precipitation in the Como Creek watershed on the eastern side of the Continental Divide along the Front Range in Colorado since 1975.

Under a grant from the National Science Foundation, Colorado University is doing a study of the impact of acid precipitation, among other things, on the Niwot Ridge, the same area studied by Lewis and Grant.

This project is being coordinated by Dr. James Halpenny. Dr. Lewis will soon publish a study of changes in the alkalinity of Rocky Mountain lakes since 1938.

Finally, a study is being conducted by John Harte of the University of California in Berkeley at high altitude sites near Gothic at the Rocky Mountain Biological Laboratory. They hope to continue monitoring for 10 or 15 years.

In addition this group is analyzing the buffering capacity of the surrounding watershed and monitoring some aquatic life thought to be acid-sensitive.

Harte has recently announced his confirmation of the existence of an acid rain problem in this area, including observations of adverse effects on aquatic life.

III.—RESULTS

Only three of these studies have been going on long enough for the researchers to draw conclusions as to trends. These are the Lewis and Grant precipitation study, Lewis's study of the chemistry of Rocky Mountain lakes, and the USGS watershed study resulted in measurements of pH values which have remained constant since the 1960s. These values vary between about 8.3 and 7.2.

Lewis and Grant's study on the other hand shows a trend towards acidification in the Como Creek watershed. This study has been criticized, however, both as to methodology and interpretation. Some experts acknowledge the probable existence of the trend but explain it as a local problem caused by upslope winds carrying nitrates from Front Range auto emissions. Lewis and Grant consider it just as likely that long-range transport from the west coast is responsible.

Perhaps supporting the upslope transport theory is that Lewis and Grant have found a level of nitrate in their samples generally higher than that found by other monitors in the Rocky Mountains not affected by Front Range conditions.

But regardless of interpretation, the study points to sources of nitrogen oxides as a cause of acid precipitation along the Front Range.

About to be published is a new Lewis study showing a decline in alkalinity in lakes in the central Rockies from 1938-1979 attributed to acidification of precipitation. The lakes were not continuously monitored during this period, but no reasonable hypothesis other than precipitation chemistry has been identified as the probable cause of pH change in the lakes.

Lewis employs a theoretical quantitative criterion as a screening device to correct for other influences but this technique has not been verified in the field. The study also relies upon the quality of sampling and analysis done from 1938-1942 and from 1949-1952 and a technique to correct for variation in total annual runoff.

This study may be subject to criticism but raises serious cause for concern, and provides substantial support for our recommendations regarding the need for expanded baseline data.

IV.—EDF'S EVALUATION OF THE RESULTS IN LIGHT OF RECENT SCIENTIFIC LITERATURE ON ACID RAIN

The data collected by the referenced researchers indicates that acid deposition is occurring throughout the western United States. Precipitation analyses routinely reveal levels of sulfate and nitrate, the anions of sulfuric and nitric acids, far above what could reasonably be considered natural, background conditions.

Sulfates and nitrates are formed by natural processes, but those natural processes are not known to produce amounts anywhere near the magnitude which result from the emission of sulfur and nitrogen oxides into the atmosphere by automobiles and industrial sources.

In most western states, ecosystems in low elevations are relatively well buffered by alkaline soils and aerosols which neutralize atmospheric acidity carried down by precipitation. High elevation ecosystems, however, contain little if any buffering capacity, and are vulnerable to the effects of acid deposition. Mountain lakes and streams usually lie in unreactive bedrock incapable of neutraliz-

ing the acidity of precipitation. Surrounding terrain also consists of exposed bedrock or limited "soil" material derived from adjacent or exposed bedrock. The bedrock of the Rockies consists mostly of sandstones and granite which have little or no capacity to buffer acids.

The devastating impact of acid precipitation on the ecology of aquatic systems insufficiently protected by natural buffering is well documented by studies of lakes in the northeastern United States, Canada, and Europe.¹ Many lakes in these areas are now incapable of supporting life. Effects on soil-based systems, including plants and wildlife, are less thoroughly documented, but may likely prove equally disastrous. (A survey of the literature of the effects of increasing acidity on natural systems was prepared by EDF's Washington staff and is attached as Appendix I.)

The precipitation sampling data reported by the researchers contacted in our survey appear to show that precipitation at higher altitudes is substantially more acidic than at lower elevations. Higher acidity at high altitude is combined with much greater precipitation rates (annual averages ranging from 30" to 150" above 7,500 feet, as compared with 8" to 15" below 5,500 feet), thus resulting in substantially greater rates of total acid deposition at high altitude.

High altitude deposition is of much greater concern because of the lack of buffering capacity, the extensive mineralization of the exposed bedrocks, and the likelihood that increased acidity will leach heavy metals and radionuclides into lakes, streams, and groundwater. Many toxic heavy metals and radionuclides are relatively insoluble in a neutral environment, but are easily leached in an acid solvent. Thus metals which have remained bound in the bedrock for millions of years can be released by contact with acid waters. This phenomenon has been observed in the northeastern United States.¹ See Appendix I.

The rate at which toxic metals would be released into surface waters, and ultimately contaminate water supplies for downstream municipal and agricultural uses, depends on a number of variables. These include, among others, the strength of the acidity, concentration and solubility of each metal and the chemistry of the bedrock involved.

Without adequate measurements of the rate of acid deposition over extended periods, it would be impossible to even begin to predict rates of heavy metal contamination of runoff from high altitudes.

But experience in the northeastern United States, Canada and Sweden is sufficient to anticipate that one of the likely long-term consequences of increased acidification of lakes and streams in high altitude areas of the West will be the increased contamination of high-country runoff with toxic metals.

No one can claim that the acid rain phenomenon is thoroughly understood. Until more is known about the long-range atmospheric transport of acid-forming pollutants and their capture by precipitation, it will be impossible in most cases to connect the acid-

¹This summary of the current status of scientific research on the formation, long-range transport and deposition of acid pollutants are drawn from the five volume "Interim Report of the Working Group" (February 1981) prepared by representatives of the U.S. EPA and Environment Canada pursuant to the United States-Canada Memorandum of Intent on Trans-Boundary Air Pollution. The volumes of primary interest are "Atmospheric Modeling" which describes the current knowledge of atmospheric conversion processes and long-range transport mechanisms, and "Impact Assessment" which evaluates available data showing the impacts on lakes, streams, sensitive species and contamination of water supplies.

ity in a particular precipitation event with a particular source or set of sources. It is also impossible at this time to predict how rapidly the acidity of the waters of mountain lakes and streams will increase without additional baseline data. Once sufficient data are available, models developed for watersheds in the Northeast can be modified to estimate how much the atmospheric loading of acid pollutants will have to be reduced in order to prevent the ultimate degradation of our mountain ecosystems.

A few things, however, are already clear. Sulfates and nitrates which form acids in the air or after deposition on the ground are formed by the chemical conversion of SO₂ and NO_x in the atmosphere. Most of the SO₂ and NO_x emitted by human activity will return to earth as sulfates and nitrates. In the West, the primary sources of sulfur dioxide are primary smelters and coal-fired power plants. The 14 primary smelters in the western United States emit over 1.1 million tons of SO₂ per year, and power plants in the same region add another ¼ million tons per year.² The primary sources of nitrogen oxides are combustion processes using air as the oxygen source where the combustion occurs under high temperature conditions. The greatest percentage of nitrogen oxides in the West are emitted by automobiles, with most of the remainder emitted by fossil fuel-fired power plants.

When interpreting acid rain data it is important to be aware of some possible sources of controversy.

It is recognized by the scientific community that there is the possibility of error in the collection and analysis of precipitation samples. Conclusions based on comparison of data collected and analyzed using different techniques may be viewed with suspicion. Data collected in this country prior to 1976 may not be comparable with more recent data. It is only recently that organized networks utilizing the same type of collection and similar analytic procedures have been brought into operation in America.

Data on acid rain are often reported in terms of one of two parameters—concentration and deposition of pollutants in rainfall. It is important that these be distinguished. Concentration is the amount of pollutants in the rain and does not speak to the amount of pollutants eventually deposited on a watershed. Deposition is the concentration of pollutants multiplied by the amount of rainfall—the total amount of pollutants deposited on a given area of earth.

Concentration is to a certain extent a function of the intensity of rainfall. The highest concentrations of pollutants are found in drizzles under 1 mm/hr. Concentrations in rainfalls of greater intensity do not vary significantly with intensity.

Confusion can result when different parameters are used to evaluate an acid rain problem in a particular area. Areas with a high concentration but little precipitation may receive less deposition than areas with a lower concentration and more precipitation.

Studies have not been able to establish direct correlations between a specific source and a specific acid rain event. But trajectory analysis and long-range transport modeling have demonstrated that regions where acid deposition is greatest are located in the path of persistent winds from regions where emissions of SO₂ and NO_x are greatest.

While the specific mechanisms by which acid is formed in the atmosphere, transported

²General emission inventories for sources of NO_x and SO₂ are reported in *Protecting Visibility, An EPA Report to Congress* (October 1979), Chapter 6. EDF has also conducted an independent evaluation of smelter emissions in the West based on source-specific emissions data obtained from EPA regional offices.

and deposited are the subject of legitimate scientific debate, the acid precipitation research needed to answer all the questions raised by this debate is not proceeding at a pace which will guarantee clear answers before serious harm to life-supporting ecosystems occurs. Once the limited buffering capacities of the mountain areas have been exhausted, damage done thereafter will be irreversible.

Wise public policy suggests that the pace of measurement and research should be increased so as to permit conclusions to be drawn as quickly as possible.

But during those years necessary to obtain sufficient data to draw scientifically reliable conclusions about the rate of deposition, and the strategies needed to reduce deposition to harmless levels, policies should be adopted to minimize existing emissions of acid precursor pollutants to the extent consistent with the use of available control technology on the most significant sources of those pollutants in the West, i.e., autos, smelters, and power plants.

V.—RECOMMENDATIONS

1. The most urgent need is for better information regarding the geographical distribution and rate of acid deposition in the West. Better information means both expanding current sampling programs to include areas not now being studied, and the use of standardized sampling and analytical procedures to ensure the maximum usefulness of data now being collected.

To achieve an expanded program, EDF strongly recommends that the environmental protection programs of the three major federal land management agencies be expanded to include an integrated, interagency sampling program to better characterize total acid deposition in various regions, and the development of water quality data measurement system capable of identifying long-term changes in acidity and mineral leaching.

The Forest Service and National Park Service should be immediately funded for the express purpose of establishing and maintaining acid precipitation sampling programs in parks and wilderness areas throughout the West which are designated Class I under the Clean Air Act.

Currently, the Parks Service maintains a limited number of sampling stations in a few large parks along the Continental Divide. This program should be expanded to include other national parks and monuments which would help develop a wider distribution of samples under more diverse conditions, and with varying proximity to major sources of acid-precursor pollutants.

The Forest Service has initiated efforts to establish an acid precipitation station in Colorado in an area likely to be affected by new emissions of acid-forming pollutants from oil shale retorts.

Other wilderness areas should also be included in a broader effort by the Forest Service to measure acid deposition.

Expanded efforts to develop baseline data in Class I areas are absolutely essential if these management agencies are to have the capability to carry out their duty to protect "air quality related values" under section 165(d) of the Clean Air Act.

2. Major sources of acid-precursor pollutants—SO₂ and NO_x—should be controlled to minimize total atmospheric loadings of those pollutants until trends in the rate of acid deposition can be established.

Given the potentially high economic, environmental and social costs of widespread destruction of ecosystems and contamination of water supplies that may result from current levels of acid deposition in the West, it is prudent public policy to minimize the possible adverse effects until better data are available to more accurately assess the risks of substantial harm.

Focusing on the most significant sources of

NO_x and SO₂ emissions, the most effective strategies for minimizing these pollutants include:

(1) Retaining the existing statutory standards for the emission of NO_x from motor vehicles (section 202), rather than doubling the standards as proposed by the automobile industry. Production of vehicles complying with standards now in the law will achieve a 40 percent reduction in total NO_x emissions from mobile sources by 1990. See National Commission on Air Quality Report, Table 21, p. 198. Enactment of the auto industry proposals will result in maintaining or slightly increasing total loadings by 1990. The 1981 auto fleet meets the existing 1.0 gr/ml NO_x standard. New technology is not required.

(2) Retain the existing requirement that all new sources of pollution be required to use "best available control technology" (section 165). Fluidized bed combustion technology and other techniques for reducing NO_x emissions from power plants and other major stationary sources of NO_x should be required as best available control technology for new sources. Experimental applications of fluidized bed technology have shown that major reductions in total NO_x emissions can be achieved, whereas now stationary sources are not required to reduce NO_x emissions.

(3) SO₂ emissions from smelters in the West should be required to comply with state implementation plans. Current SO₂ emissions from smelter exceed 1.1 million tons of SO₂ per year, and account for about 80 percent of all SO₂ emissions * * * from smelters to less than 400,000 tons per year. The technology now exists to achieve the levels of control required by state plans. But these reductions can be achieved only if the compliance exemptions enacted in 1977 (section 119) are repealed.

3. The duty of Federal Land Managers and the states under section 165(d) of the Act to protect "air quality related values" in national parks and wilderness created before 1977 should be extended to new national park and wilderness areas. The "air quality related values" test for federal lands is the only provision which gives the government authority to regulate emissions which will cause harm by the deposition of acids.

4. The protections against visibility impairment in parks and wilderness areas should also be retained because EPA research shows that the sulfates and nitrates which cause acid rain are also the pollutants responsible for visibility impairment. Protecting visibility may provide substantial protection against acid deposition.

VI.—RESEARCHERS CONTACTED FOR THE SURVEY

NADP and the Fish and Wildlife Service Rocky Mountain Assessment: Dr. James Gibson, C.S.U., Fort Collins, Colorado, 491-5571.

USGS: Colorado, John Turk, 234-3487; New Mexico (water runoff study), Kim Ong, (505) 766-2011; Idaho, Tom Edwards, (208) 334-1750; and Montana, Roger Napton, (406) 449-5263.

NPS: Colorado Rocky Mountain National Park Study, Jill Baron, 491-5642; Colorado, General Information, Ray Herman, 491-5642.

National Soil Survey Laboratory, Lincoln, Nebraska: George Hohmgren, (402) 471-5363.

University of Wyoming: Carol Baird, (307) 766-6732.

University of Colorado: Dr. Michael Grant, 492-7869; Dr. William Lewis, 492-6378; Dr. James Halfpenny, 492-8841; and Dr. Patrick Weber (Niwoot Ridge Study), 492-7909.

NCAR: Allan Lazarus, 494-5151.

University of California project at Gothic, Colorado: John Harte, Rocky Mountain Biological Lab, Crested Butte, Colorado 81224; Lawrence Berkeley Laboratory, University of California, Berkeley, California 94720, (415) 486-6119.

APPENDIX I (Memorandum)

ENVIRONMENTAL DEFENSE FUND,
August 10, 1981.

To: Concerned Officials, Organizations and Individuals.
From: William Y. Brown, Scientists, Wildlife Program, Michael J. Bean, Attorney, Wildlife Program.
Subject: Acid Rain and Wildlife Conservation.

Enclosed is an EDF paper entitled "Acid Rain and Wildlife Conservation." The paper distills a mass of information compiled jointly by the United States and Canada in preparation for the negotiation of an international agreement on transboundary air pollution. Although prepared for internal governmental use, these data were recently made available to the public. Several additional studies, including in particular work done on damage to forests, are also included in the EDF paper.

The observations summarized in this paper are sobering. Major areas of eastern North America, and perhaps the West, are threatened with massive loss of life forms because of acid rain. Although continuing, intensive research on the problem is essential, failure to take immediate steps to curtail the responsible pollutants, sulphur dioxide in particular, would demonstrate a reckless attitude of our society toward living resources.

We urge you to read the paper carefully and to do what you can to solve the problem. Two fundamental steps are urgent:

The Congress must not weaken the limits on sulphur and nitrogen oxide pollution currently required under the Clean Air Act.

A new law should be enacted to substantially reduce sulphur dioxide emissions in the eastern United States. The National Clean Air Coalition is working on this bill and it needs your support.

Please contact us if we can be of further assistance.

ACID RAIN AND WILDLIFE CONSERVATION

(By Dr. William Y. Brown)

Acid deposition is currently being observed in most of eastern North America. Within this half-continent are large areas in which the surface soil material and bedrock types have little buffering capacity for acid inputs and are identified as "potentially sensitive." These areas include some of the most unique unspoiled and biologically productive environments in North America. The potential is high for environmental degradation from the deposition of acid and other pollutants. (U.S.-Canada Work Group on Impact Assessment of Transboundary Air Pollution, Interim Report, January 15, 1981.)

THE CAUSES

Acid rain is caused principally by pollution of the air with sulphur oxides and nitrogen oxides. Most sulphur oxides come from the smoke of coal-fired power plants and ore smelters. These power plants, plus car and truck exhaust, add nitrogen oxides to the air. In atmospheric water, sulphuric acid and nitric acid are formed. These acids fall with rain and snow, then flow to streams and lakes. Precipitation in large areas of North America is forty times more acid than normal. Sometimes combined with acids formed on the ground by gaseous and solid pollution, this acid rain is destroying wildlife in poorly buffered areas over much of the eastern United States and Canada. (1,2)

THE MECHANISMS

Acid rain destroys wildlife primarily in three ways. First, acid rain directly inhibits reproduction in many species. (2,3,4) Second, acid rain can release toxic metals (aluminum, manganese, iron) which kill animal and plant life. (5,6,7,8,9) Third, acid rain can discharge from ecosystems other metals which

are essential to many plants and animals (calcium and magnesium) (8,9)

THE DESTRUCTION OF WILDLIFE

Freshwater lakes and streams

Acid rain can dramatically alter the kinds and diversity of animals and plants inhabiting lakes and streams. Many lakes have been stripped of most native life altogether.

Disruption of microorganisms

Field and laboratory studies in Scandinavia and North America indicate that bacterial diversity decreases in acidified water, accompanied by an increase in fungi, decrease in community respiration, and possible inhibition of the Nitrogen Cycle. (2,10)

Degradation of plankton

Plankton communities in lakes are sensitive to rising acid concentration. Generally one or two species of resistant algae become abundant while other native species diminish and may be lost. (11, 12) Overall, species diversity drops. (13, 14, 15) The dominant algae in acid lakes, a group called diatoms, cannot readily be eaten by invertebrate animals in the plankton. (2, 11)

Invasion of Sphagnum moss

When lakes become acid, species of larger plants may be replaced by Sphagnum mosses. Moss invasion has been documented in Sweden, Canada, and New York State. (16, 17, 18, 19) Sphagnum moss forms extensive, dense beds. In New York State, growth of moss has been accompanied by proliferation of acid tolerant algae, which has completely covered larger plants in some areas and blocked the capture of sunlight. (19)

Disappearance of molluscs and crustaceans

Molluscs and crustaceans cannot live in acid waters. Molluscs are generally restricted to water with pH greater than 5.8 to 6.0—less acidic than many lakes affected by acid rain. (20, 21, 22) Many crustaceans are similarly sensitive. (23) The need of these animals for calcium, and its depletion from waters turned acid, may be responsible. (2)

Failure of reproduction in amphibians

Many species of frogs, toads and salamanders breed in temporary pools of meltwater formed in the spring. These pools are often very acid. Embryonic mortality and deformity is great in certain salamanders at pH less than 6.0. Yet the average breeding pool for these same species is 32 times more acid. (3, 24) Particularly sensitive species of amphibians include: (25)

Wood frog (*Rana sylvatica*).
American toad (*Bufo americanus*).
Northern spring peeper (*Hyla crucifer*).
Chorus frog (*Pseudacris triseriata*).
Yellow-spotted salamander (*Ambystoma maculatum*).
Blue-spotted salamander (*Ambystoma laterale*).
Tremblays salamander (*Ambystoma tremblayi*).

It is inevitable that amphibian species such as these will suffer severe decreases and will become locally extinct. Reduction in the biomass of amphibians may have far-reaching effects in both aquatic and terrestrial ecosystems, because salamanders and frogs are important prey for birds and mammals. (2)

Fish loss

High acid concentration can inhibit larval development of fish and promote aluminum and mercury concentrations to toxic levels. (2, 5, 7, 26-30) Massive kills have been observed for Atlantic salmon (31) and brown trout (32) in Europe and for pumpkinseeds, during spring snow melt, in North America. (33) However, less dramatic increases in mortality and drops in reproduction are more significant over the long term, eliminating

many species from significant areas of their range:

Brook trout no longer can survive in at least 180 acidified Adirondack ponds where they formerly lived. (34)

Nearly half of the Adirondack lakes may be acidified and devoid of fish—10 times more than 50 years ago. (35)

Fish have disappeared from many lakes in Ontario, Canada. Consider Lumsden Lake (one of 68 case studies): (33)

1950s: 8 species of fish present.

1960: Last report of yellow perch and burbot.

1960-65: Sport fishery falls (pH 6.8 in September of 1961).

1967: Last capture of lake trout.

1968: White sucker suddenly rare.

1969: Last capture of trout perch, lake herring and white sucker.

1970: Only lake chub present.

1971: Lake Chub very rare (pH 4.4 in August of 1971).

Thousands of lakes in Ontario and Quebec, many of them prime sport fisheries for U.S. and Canadian citizens, may be similarly lost if acid rain continues at present rates. (2)

In Nova Scotia, acidification threatens 30% of the Atlantic salmon populations. Salmon reproduction has ceased in nine rivers where the fish once lived. Canada may be following in the footsteps of Norway, where acid rain has devastated salmonid fish. (36)

Fish populations in lakes and rivers generally are genetically distinct, being locally adapted. Elimination of a population is therefore not reversible by restocking. Furthermore, replacement stocks will not survive if acid rain is not abated, nor will they survive with lower acid concentrations if essential elements have been expelled from the ecosystem by former high acidity. (2)

Decline of birds and mammals

Birds and mammals which depend on acid-sensitive animals and plants for food can be expected to decline when feeding lakes and streams become acidified. Fish-eating birds have disappeared from acid lakes in Sweden. (14, 37) In North America, the Common Loon has declined in the Adirondacks over the last 15 years, paralleling the decline in fish populations as well as increased human disturbance. (38, 39) The following birds and mammals are considered particularly susceptible to acid rain in North America and should be monitored closely:

Birds and Mammals Susceptible to Acid Rain (25)

Common Loon (*Gavia immer*).
Common merganser (*Mergus merganser*).
Hooded merganser (*Mergus cucullatus*).
Red-breasted merganser (*Mergus serrator*).
Great blue heron (*Ardea herodias*).
Belted kingfisher (*Megasceryle alcyon*).
Common goldeneye (*Bucephalus clangula*).
Ring-necked duck (*Aythya collaris*).
Black Duck (*Anas rubripes*).
Green-winged teal (*Anas carolinensis*).
Mallard (*Anas platyrhynchos*).
Northern pintail (*Anas acuta*).
American widgeon (*Anas americana*).
American mink (*Mustela vison*).
River otter (*Lutra canadensis*).
Muskrat (*Ondatra zibethicus*).

Forests

Beech and spruce forests in West Germany provide the only long-term information concerning effects of acid rain on forests. (8) In these forests, already acidic rain is made two to four times more acid by sulphur dioxide and particulates. The acid is releasing aluminum salts in the soil, killing rootlets. The beech forest is considered to be doomed and the spruce forest unlikely to survive.

These studied West German forests are grown on sensitive, unbuffered soil. No industry is in the forest area, although the Essen-Dusseldorf Industrial Area lies 130-

150 km to the west. No study has demonstrated such damage to forests in North America.

However, many forest ecosystems should be considered at risk and monitored carefully. These include such unique ecosystems at the Boundary Waters Canoe Area Wilderness of Northern Minnesota, (40) the Great Smoky Mountains National Park in Tennessee and North Carolina, (41) the Adirondack Mountains in New York, (42) and the Kejimikujik National Park in Nova Scotia. (2)

THE SOLUTION TO THE PROBLEM

Acid rain will abate only with reduction in the amount of sulphur and nitrogen oxides put into the air by coal-fired power plants, smelters, refineries, cars, trucks, and other sources.

A major positive and feasible step would be reduction in the amount of sulphur dioxide emissions by power plants. The National Commission on Air Quality has estimated that a seven million ton reduction in annual sulphur dioxide emissions by eastern utilities can be achieved by 1990 with an average increase of less than two percent in eastern utility bills.

The National Clean Air Coalition is investigating the additional cost of a reduction totaling ten millions tons. Because a reduction of seven to ten million tons of sulphur dioxide constitutes some 40 to 57 percent of total emissions in the East, the abatement of acid rain would be substantial.

To stop the destruction of wildlife by acid rain, concerned citizens, organizations, government agencies and elected officials should:

Support those existing limitations on emissions of sulphur and nitrogen oxides which have been set under the Clean Air Act. Many efforts are now underway to weaken the Clean Air Act this autumn, and your help is needed to keep the law intact.

Support the efforts of the National Clean Air Coalition to have new legal authority enacted to substantially reduce sulphur dioxide emissions by 1990.

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● Mr. STAFFORD. Mr. President, I am pleased to cosponsor Senator MITCHELL's bill.

Three years ago, I was somewhat doubtful that there was a phenomenon called acid rain.

Two years ago, I believed in acid rain, but was not certain as to its causes.

One year ago, I was persuaded not only that it existed, but that acid rain was caused by sulfur and nitrogen oxides emitted primarily from utility and industrial boilers, especially in the Mid-

west. What I doubted was the will of Congress to deal with the issue.

Today, I believe the Congress has acquired not only the knowledge, but the will. Whatever happens to the Clean Air Act, it is becoming increasingly certain that the Congress will have no choice but to deal with the acid rain issue.

I know that Senator MITCHELL has developed this proposal over the course of several months and compliment him on his efforts. He has made every attempt to respond to the complaints and comments of all sides interested in this issue. He has made every attempt to develop a bill which all sides can support, for which he deserves great credit. Rather than responding to a sensitive political and environmental issue in an unthinking and rigid fashion, he has attempted to develop a balanced and reasonable bill.

Mr. President, I hope that during this session the Committee on Environment and Public Works, the Senate, and the Congress can address the acid rain problem. I believe Senator MITCHELL's bill is an excellent foundation for our work, and I am pleased to join him in its introduction. ●

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time having been yielded back, morning business is closed.

RECESS UNTIL 2 P.M.

Under the previous order, the Senate will stand in recess until 2 p.m.

Thereupon, at 1:05 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KASTEN).

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1981

The PRESIDING OFFICER. The clerk will state the pending business before the Senate.

The legislative clerk read as follows:

A bill (S. 898) to amend the Communications Act of 1934 to provide for improved domestic telecommunications, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. 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. BRADLEY. Mr. President, in a few minutes I will send an amendment to the desk and ask for its immediate consideration. This is an amendment which deals with the exchange area section of the bill. It is one, I think, that is consistent with the intent of the bill.

If an exchange area is altered because of growth, the bill states that it shall be reduced to the SMSA, which, in certain States, has the effect of converting what are presently local calls into long-distance calls, dramatically increasing costs to the ratepayer. This particularly is true in densely populated States like New Jersey.

The amendment I am offering would give an option to use the standard consolidated statistical areas as well as the SMSA's.

I have cleared this amendment with the chairman.

Mr. PACKWOOD. Mr. President, indeed the Senator from New Jersey has a very unique geographical situation, and this amendment cures what would otherwise be a hardship in the telephone exchange system in New Jersey. I believe both the majority and minority have seen the amendment and we are prepared to accept it.

UP AMENDMENT NO. 466

(Purpose: To include "consolidated statistical areas" for densely populated areas)

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

The PRESIDING OFFICER. (Mr. COHEN). The Chair is advised that there is currently pending an amendment before the Senate by the Senator from South Carolina.

Mr. PACKWOOD. Mr. President, I just talked with the Senator from South Carolina and asked if he had any objection to temporarily laying his amendment aside.

I might say to Senator THURMOND, this is not his amendment, but it is Senator HOLLINGS' amendment.

I just talked to Senator HOLLINGS and he said he had no objection to temporarily laying his amendment aside. I ask unanimous consent to temporarily lay aside the amendment of the Senator from South Carolina so we might consider this amendment, and also ask unanimous consent that we might temporarily lay it aside to consider the next amendment, of the Senator from New Jersey.

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

The amendment will be stated.

The legislative clerk read as follows: The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 466.

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

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

The amendment is as follows:

On page 141, line 23, insert "(or a consolidated statistical area, in the case of densely populated States)" after "area".

On page 142, line 1, insert "(or a consolidated statistical area, in the case of densely populated States)" after "area".

Mr. BRADLEY. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 466) was agreed to.

UP AMENDMENT NO. 467

(Purpose: To preserve reasonable rates for basic telephone service)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 467.

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

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

The amendment is as follows:

On page 106, line 7, insert "increase in" after "unreasonable".

On page 137, line 3, insert "(1)" after "(d)".

On page 137, insert the following between lines 13 and 14:

"(2) In establishing practices to ascertain and apportion exchange costs between exchange telecommunications services and exchange access and ensure the universal availability of basic telephone service at reasonable charges the Commission may consider the establishment of charges at rates which will provide a level of revenue to exchange carriers no less than the level of revenue exchange carriers received during the calendar year 1980."

Mr. BRADLEY. Mr. President, this amendment is consistent with the concept of the bill. The bill before us, S. 898, eliminates certain subsidies which currently are used by State regulatory agencies to hold down the cost of the basic telephone rates to residential consumers. These subsidies—from yellow pages advertising and intra-State long distance rates—would be replaced by the access fees that will be paid by various companies hooking into the regulated system.

The thrust of my amendment simply says that there shall not be an unreasonable rate increase as a result of this shift in subsidy arrangements, and says that the FCC may consider the current subsidy levels as a floor.

That is the thrust of the amendment. The amendment says the FCC may consider, but I think the chairman of the committee also feels that, indeed, the FCC should give consideration to establishing the idea of such a floor.

Mr. PACKWOOD. Mr. President, again, the amendment has been cleared with both the majority and minority. We agree with its purpose and are ready to accept the amendment.

Mr. BRADLEY. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 467) was agreed to.

UP AMENDMENT 468

Mr. PACKWOOD. Mr. President, I see the Senator from South Carolina (Mr.

THURMOND) is in the Chamber. Because his amendments have been worked out and are acceptable, I ask unanimous consent that we once more temporarily lay aside the amendment of Senator HOLLINGS so we may dispose of the Judiciary Committee amendments.

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

The Senator from South Carolina.

Mr. THURMOND. Mr. President, it is difficult to overstate the significance of the legislation we consider today. S. 898, the "Telecommunications Deregulation and Competition Act of 1981," is the culmination of over 5 years of arduous effort by the Congress to overhaul the 1934 Communications Act. As we approach the 50th anniversary of the Communications Act, there can be no doubt of the need for Congress to respond to the rapid changes we have witnessed over the last few decades in the field of telecommunications. By amending the 1934 act, S. 898 not only recognizes the tremendous technological advances which have occurred, but serves to foster and promote innovation far into the future.

Clearly, the intent and goal of S. 898 is, as far as possible, to replace regulation with free and open competition in the everbroadening field of telecommunications. I applaud this worthy purpose. The special nature of the telecommunications industry, however, cautions that particular care be given to assuring that the competition this bill authorizes be fair and effective.

Cognizant of its responsibility to protect trade and commerce against unlawful restraints and monopolies, the Committee on the Judiciary has focused much attention on the competitive implications of S. 898. The committee conducted 6 days of hearings on competition in the telecommunications industry, with particular focus on S. 898. We received testimony from numerous witnesses representing a wide spectrum of opinion touching on various competitive concerns.

As a result of these hearings, Mr. President, I am pleased to present to this body a package of amendments to S. 898, designed to alleviate certain competitive problems perceived to presently exist in the bill. These amendments were developed with the full cooperation and constructive input of the Committee on Commerce, Science, and Transportation and I understand that both the chairman and ranking minority member of that committee will be cosponsoring the amendments, or at least supporting them.

The administration also has given its full cooperation, active assistance, and support to the development of these amendments. Indeed, two of the amendments which I offer today were prepared and submitted by the Justice Department. The final package reflects the concern of the administration that deregulation not be effected at the expense of healthy competition in the telecommunications market, so that the consumer will be the ultimate beneficiary of our action today.

Mr. President, the amendments cover a wide range of problems. Their primary

goal, however, is to make certain that the dominant-regulated carrier and the "fully separated affiliate" which will be formed pursuant to the bill are, in fact, fully separated. To the greatest extent possible, every avenue between these business entities which would permit dangerously anticompetitive cross-subsidization must be eliminated. To this end, most of the amendments proposed today serve to tighten the separation requirements set forth in the bill.

The other amendments in the package cover a variety of antitrust concerns, all of which provide needed improvements to this bill. I have prepared full explanations of each amendment which I shall ask unanimous consent to have made part of the RECORD.

In conclusion, Mr. President, I urge support of each of these amendments. I feel that the potential antitrust problems which have been identified and so thoroughly discussed over the past few months will be greatly diminished by the amendments. The Committee on the Judiciary cannot shirk and, in this case, has not shirked its responsibility to this body to examine legislation which has significant antitrust implications. We are appreciative to the sponsors of this legislation for being so receptive to our suggestions.

Mr. PACKWOOD. Mr. President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I want to laud and thank the Senator from South Carolina for the attention he has given to this bill and for the amendments that he has drafted and proposed. They improve the bill immensely and I am in his debt. Initially, I had some resistance to them but, because of his persuasiveness and thoughtful approach of the amendments, I am persuaded of their merits. I am thankful to the Senator from South Carolina for what he has done.

Mr. President, we are prepared to accept the amendments. I believe the minority is, also.

Mr. CANNON. Yes, Mr. President, we accept them.

Mr. PACKWOOD. We are prepared to accept the amendments en bloc.

The PRESIDING OFFICER. The Chair is advised that the amendments have not been offered yet.

Mr. THURMOND. That is fine, Mr. President, if the amendments can be agreed to en bloc, that suits me. I shall send the amendments to the desk and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) for himself and Mr. CANNON, proposes an unprinted amendment numbered 468.

(Purpose: To establish procurement policies for fully separated affiliates)

On page 168, strike lines 3 through 6 and substitute:

PROCUREMENT POLICIES

SEC. 231. The 1934 Act is amended by inserting the following new section after section 230.

"PROCUREMENT POLICIES

"Sec. 231. (a) Except as provided in section 233, not later than 6 months after the date of enactment of the Telecommunications Competition and Deregulation Act of 1981, the dominant-regulated carrier (referred to in section 203 (b)) shall adopt and implement a purchasing policy for itself and all of its affiliates (not including any fully separated affiliate), for the procurement of telecommunications products (subject to such restrictions as the Commission may establish pursuant to section 240 of the Telecommunications Competition and Deregulation Act of 1981). Such procurement shall be on a fair and nondiscriminatory basis.

"(b) Not later than the second calendar year after the date of enactment of the Telecommunications Competition and Deregulation Act of 1981, the dominant-regulated carrier and its affiliates (not including any fully separated affiliate) shall purchase no lesser percentage of its requirement of telecommunications equipment for each product category from nonaffiliates, than—

"(1) the percentage set forth herein: namely, during the second year, the base period percentage; during each of the next five years, the prior year's percentage multiplied by 1.2; during each of the following five years, the prior year's percentage multiplied by 0.8; or

"(2) 20 percent; whichever is less. Thereafter, the requirements of this subsection shall be terminated. A dominant-regulated carrier shall have the burden of demonstrating that any failure to meet the mandatory outside purchase requirements is due solely to the lack of reasonable availability on a timely basis of telecommunications products which meet required specifications at competitive prices from nonaffiliates.

"(c) In order to ensure compliance with this section the Commission—

"(1) shall issue regulations under which a dominant-regulated carrier shall report purchases of telecommunications products in such form and for such periods as will enable the Commission to monitor compliance with this section; and

"(2) shall issue other rules and regulations consistent with the purposes of this section.

"(d) For the purposes of this section the term:

"(1) 'Telecommunications products' means equipment, including related services and software programing commonly used in providing exchange and interexchange telecommunications service other than customer-premises equipment.

"(2) 'Product category' means categories of telecommunications products defined by the Commission pursuant to this section, which categories shall be defined so as to effectuate the purpose and intent of this section, except that electronic switching equipment shall be treated on an item by item basis.

"(3) 'Base period percentage' means, for each product category, the percentage of purchases of telecommunications products (A) made during the 2 calendar years ending in the year in which this section was enacted, and (B) that were made by a dominant-regulated carrier from suppliers other than affiliates or fully separated affiliates. For the purpose of making the computations required by subsection (b), the base period percentage for any equipment category shall not have a value of less than 8 percent.

"(e) Nothing in section 228 shall be construed to relieve the dominant-regulated carrier and its affiliates from the requirements of this section.

"(f) The Attorney General of the United States shall have the right to sue in any district court to enjoin violations of this

section by a dominant-regulated carrier or any affiliate, or any Federal agency including the Commission. The Attorney General may also commence an action to obtain injunctive relief pursuant to this subsection in order to obtain compliance with the provisions and requirements of this section.

"(g) The Commission shall annually report to Congress concerning the operations of this section. In that report, the Commission shall set forth with particularity difficulties encountered and the progress achieved in obtaining full and fair competition in the telecommunications products field. Such report may be included as a separate section in the annual report the Commission submits pursuant to the Communications Act of 1934."

(Purpose: To clarify provisions dealing with patents independently developed by a fully separated affiliate)

On page 160, strike lines 1 through 4 and substitute the following:

"(2) The final judgment described in subsection (a) shall not be construed to require any fully separated affiliate to license patents or provide technical information, developed independently by the fully separated affiliate or by any nonaffiliated person.

"(3) Notwithstanding any other provision of this Act, a dominant-regulated carrier shall not transfer to a fully separated affiliate any patents or related technical information held or developed by the dominant-regulated carrier, provided that the dominant-regulated carrier may license patents and related technical information to the fully separated affiliate on the same terms and conditions that such licenses are issued to third persons.

"(e) The patent licenses required to be granted back to the American Telephone and Telegraph Company and its affiliates by section X applicants under the terms of the final judgment described in subsection 229 (a), at the option of such applicant, may be limited to a term of 5 years, and grants of patent licenses by A.T. & T. and its affiliates, at the option of A.T. & T., may be limited to a term of 5 years."

On page 160, line 5, strike "(e)" and substitute "(f)".

On page 160, line 13, strike "(f)" and substitute "(g)".

On page 160, line 22, strike "(g)" and substitute "(h)".

(Purpose: To prevent cross subsidization)

On page 105, line 15, insert "cross subsidization and other" and "with".

(Purpose: To provide authority for the Commission to request information with regard to dealings between certain carriers and affiliates)

On page 147, insert the following between lines 15 and 16:

"(1) The Commission may request information from the dominant-regulated carrier or any of its affiliates, or the fully separated affiliate regarding the conduct of business between the fully separated affiliate and the dominant-regulated carrier or any affiliate in order to properly enforce the provisions of this section."

On page 147, line 16, strike "(1)" and substitute "(j)".

On page 147, line 19, strike "(j)" and substitute "(k)".

(Purpose: To clarify transitional provisions)

On page 175, insert the following between lines 2 and 3:

"(C) Any service which the Commission determines subject to effective competition and deregulated pursuant to subparagraphs (A) or (B) shall continue to be offered under tariff for a transition period not to exceed 6 months from the date of such determination."

(Purpose: To clarify provisions relating to the governing board of a fully separated affiliate)

On page 143, line 4, insert "which percentage shall also include any individual specified in subsection (a) (1)" after "affiliate".

(Purpose: To minimize the availability of funds for cross subsidization)

On page 119, insert the following new sentence at the end of line 13: "All such tariffs shall be accompanied by economic cost support data establishing the justness and reasonableness of such tariffs."

(Purpose: To assure that a fully separated affiliate bears its fair share of costs of marketing)

On page 143, line 18, insert "advertising, installation, production," after "sales".

On page 143, line 21, insert "of a type not related to specific services, facilities, and equipment" after "advertising".

(Purpose: To prohibit cross-subsidization)

On page 147, insert the following between lines 22 and 23:

"(K) Nothing in this section shall be construed to permit cross-subsidization or any other anticompetitive conduct by a dominant-regulated carrier."

(Purpose: To clarify provisions relating to protocols and information)

On page 129, line 18, strike "until filed" and substitute "except".

On page 129, insert the following between lines 18 and 19:

"(C) No information regarding operational protocols or interface requirements, or anticompetitive modification in such protocols or interface requirements, may be disclosed by the dominant-regulated carrier or any of its affiliates to a fully separated affiliate (or to an affiliate providing support (manufacturing, research, and development) for the fully separated affiliate or that provides components or subassemblies to the fully separated affiliate) except that such information may be filed with the Commission and released by the Commission pursuant to paragraph (2)."

(Purpose: To revise provisions relating to the assets evaluation board)

Beginning on line 18, page 152, strike out through line 4 and substitute:

"(5) There shall be established an assets evaluation board composed of three members selected by the Commission, at least one of whom shall be chosen upon the recommendation of the National Association of State Commissions. The Board shall determine the value of any assets transferred from the affected dominant-regulated carrier and any affiliate to any fully separated affiliate. Evaluations of such Board shall be binding upon the Commission and upon State commissions. Any failure of the Board to take action shall not delay any such transfer contingent upon either party's option to rescind such transfers upon Board valuation."

(Purpose: To clarify provisions relating to full separation)

On page 151, line 16, strike "exclusively". On page 151, strike lines 18 through 24 and substitute "affiliate or a nonaffiliate."

On page 152, lines 3 and 4, strike "exclusively".

On page 152, line 4, strike "nonaffiliate, except" and substitute "nonaffiliate".

On page 152, beginning with line 6, strike out all through the period on line 11.

On page 152, line 12, strike "except as otherwise provided in this subsection."

On page 152, insert the following between lines 17 and 18:

"(5) Upon petition by the dominant-regulated carrier, the Commission may permit the purchase of subassemblies or basic components from the dominant-regulated carrier or affiliate under condition that the dominant-regulated carrier or affiliate offer to sell the same type of subassembly or component to nonaffiliates at the same charges and on the same terms and conditions, and subject to such other terms and conditions as the Commission shall prescribe.

On page 152, line 18, strike "(5)" and substitute "(6)".

(Purpose: To clarify provisions relating to inside wiring)

On page 171, line 7, insert "(1)" after "(a)".

On page 171, insert the following between lines 10 and 11:

"(2) Inside wiring that is installed 2 years after the date of enactment of the Telecommunications Competition and Deregulation Act of 1981 shall not be subject to regulation, and may not be provided by a dominant-regulated carrier.

"(3) No person owning or controlling inside wiring may require, prohibit, or otherwise restrict the interconnection of such wiring with any telecommunications carrier or any customer-premises equipment which meets such standards as the Commission may establish under section 234(c)(1)."

(Purpose: To strengthen full separation)

On page 143, line 24, strike "and".

On page 144, line 5, strike the period and insert a semicolon.

On page 144, insert the following between lines 5 and 6:

"(7) not use real or personal property except in accordance with the requirements established in subsection (d) of this section; and

"(8) not enter into any joint venture or partnership other than as permitted by subsections (c) and (g) of this section."

On page 144, strike lines 6 through 20 and substitute:

"(b)(1) A fully separated affiliate may conduct business with respect to the transfer of goods, services, and facilities with its dominant-regulated carrier, provided that such business is conducted."

On page 144, line 21, strike "shall be".

On page 144, line 24, strike all after the period.

On page 144, line 25, insert the following before "pursuant":

"(2) Such conduct of business shall be".

On page 145, insert the following at the end of line 4: "Nothing in this subsection shall be construed to allow the use of any contract or other arrangement which has the result of assigning or allocating the research, development, manufacturing, marketing, management or other costs of service, facilities, interexchange equipment or customer-premises equipment to other services, facilities, or equipment which remain subject to regulation."

On page 147, insert the following between lines 15 and 16:

"(1) (1) All applied research, development, manufacturing, marketing, and all other services provided by a dominant-regulated carrier to any of its affiliates or to a fully separated affiliate which relate to the production or marketing of telecommunications products or customer-premises equipment shall be provided only on a fully auditable and compensatory basis. No cost of such activities shall be included as a cost underlying the determination of charges for any regulated interexchange and exchange telecommunications service except as reflected in the price paid by the dominant-regulated carrier for telecommunications products or customer-premises equipment purchased from the affiliate or fully separated affiliate.

"(2) All administrative or other general expenses provided by the dominant-regulated carrier on behalf of any affiliate or fully separate affiliate shall be provided only on a fully auditable and compensatory basis, and each affiliate and fully separated affiliate shall reimburse a dominant-regulated carrier for a pro rata share of the common administrative and general expenses of such carrier.

"(3) No results of research or engineering studies (including drafts, work in progress, or preliminary results) the costs of which are used in the determination of charges of the regulated interexchange and exchange telecommunications services of a dominant-regulated carrier (other than as provided in subparagraph (1)) shall be made available to a fully separated affiliate engaged in the manufacture of telecommunications products prior to the time such results are made available to competitors of such fully separated affiliates. If such results are provided to any fully separated affiliates, they shall be provided to their competitors without charge."

On page 147, line 16, strike "(i)" and substitute "(j)".

On page 147, line 19, strike "(j)" and substitute "(k)".

(Purpose: To clarify provisions relating to customer-premises equipment)

On page 172, line 18, strike "and" and substitute "and 235(c)".

On page 172, strike lines 19 through 21 and substitute "under section 233, no dominant-regulated carrier".

On page 175, line 9, strike the quotation marks and the second period and substitute the following new sentence: "The Commission may extend this period for up to an additional 2 years if the Commission finds that such extension serves the purposes of this Act."

(Purpose: Special Procurement and Open Market Sales (No. 1))

At the appropriate place insert the following:

"SPECIAL PROCUREMENT AND OPEN MARKET SALES REQUIREMENTS

"SEC. . (a) In the second calendar year after the calendar year in which this Act is enacted, and in each of the following calendar years, the ratio of the gross annual sales of telecommunications products made by any affiliate or any fully separated affiliate of a dominant-regulated carrier to the dominant-regulated carrier, to such sales made to nonaffiliated entities shall not exceed the product of the 'access line ratio' times the 'access line multiplier', as determined in accordance with this section.

"(b) For the purpose of this section the term:

"(1) 'Telecommunications products' means equipment, related services and software programing commonly used in providing regulated exchange telecommunications service.

"(2) 'Internal sales' means the sale of telecommunications products made by any affiliate or any fully separated affiliate of a dominant-regulated carrier to such dominant-regulated carrier.

"(3) 'Noninternal sales' means the sale of telecommunications products by an affiliate or fully separated affiliate of a dominant-regulated carrier to nonaffiliated entities.

"(4) 'Equipment category' means categories of telecommunications products defined by the Commission pursuant to this section, which categories shall be defined, as nearly as practicable, on an item-by-item basis so as to afford, with respect to every item, the market test provided by this section.

"(5) 'Access line ratio' means a fraction having as its numerator the number of

customer access lines served by affiliates of a dominant-regulated carrier and having as its denominator the number of customer access lines served by all other domestic carriers providing exchange telecommunications service (except carriers affiliated with a manufacturer of telecommunications products).

"(6) 'Access line multiplier' means an integer having a value of 10 in the second calendar year after enactment of this section and decreasing by one in each succeeding year until the eleventh year after enactment. Thereafter, the access line multiplier shall have a value of one.

"(c) The international sales by an affiliate or fully separated affiliate of a dominant-regulated carrier shall not exceed, for any equipment category, its noninternal sales multiplied by the product of the access line ratio times the access line multiplier, provided however—

"(1) that the dominant-regulated carrier shall not be deemed to have violated this section unless it fails to adhere to such limitations on an average basis, over a 3-year period; and

"(2) that these limitations shall not apply to equipment that is available to a dominant-regulated carrier from nonaffiliated domestic manufacturers only at prices significantly higher than those they charge contemporaneously to other entities.

"(d) Internal sales subject to this section shall be made at prices no greater and under terms and conditions no less favorable than the prices, terms, and conditions extended to nonaffiliated entities.

"(e) The purpose of this section is to provide, to the extent practicable, a market test for the prices and other terms under which telecommunication products are purchased by any dominant-regulated carrier from any affiliate or fully separated affiliate. The Commission—

"(1) shall issue regulations under which all carriers providing exchange telecommunications service shall report purchases of telecommunications products in such form and for such periods as will enable the Commission to monitor compliance with this section;

"(2) shall define equipment categories as narrowly as is practicable in order to achieve the purposes of this section; and

"(3) upon a showing of good cause, shall increase or decrease the limitations on internal sales imposed by this section if it finds, with respect to a particular equipment category for a specified period, that an exception is in the public interest and is consistent with the purpose of this section.

"(f) (1) Not later than one year after the date of enactment of the Telecommunications Deregulation and Competition Act of 1981, and not later than the same date in each following calendar year, the Commission shall make the calculations and other determinations required by this section. The Commission shall specifically determine—

"(A) the gross annual 'internal sales' and 'noninternal sales' in each equipment category during the previous calendar year;

"(B) the total average number of customer access lines served by a dominant-regulated carrier domestically during the same period; and

"(C) the total average number of customer access lines served by all other domestic carriers providing exchange telecommunications services during that same period.

"(2) In making these determinations, the Commission shall use generally accepted statistical sampling and accounting procedures, and shall rely to the maximum extent possible on otherwise generally available information. The Commission shall also consult in a timely fashion with the Attorney General.

"(3) As soon as possible following the de-

terminations and consultations required above, the Commission shall make the mathematical calculations required by this section. The Commission shall notify each dominant-regulated carrier of the results of these calculations.

"(g) The Attorney General of the United States shall have the right to sue in any district court to enjoin violations of this section by a dominant-regulated carrier, any affiliate, any fully separated affiliate, or any Federal agency including the Commission. The Attorney General may also commence an action in the nature of mandamus pursuant to this subsection in order to obtain compliance with the provisions and requirements of this section.

"(h) The Commission shall annually report to Congress concerning the operations of this section. In that report, the Commission shall set forth with particularity difficulties encountered and the progress achieved in obtaining full and fair competition in the telecommunications products field. Such special report may be included as a separate section in the annual report the Commission submits pursuant to other provisions of this Act."

(Purpose: To revise interconnection for exchange access)

On page 115, lines 2 and 3, strike "regulated" and substitute "interexchange".

On page 115, insert the following between lines 19 and 20:

"(c) (1) Not later than September 1, 1984, every exchange carrier shall begin to offer to all interexchange carriers exchange access (as that term is defined in section 222 (j) (1)) on an unbundled, tariffed basis, that is equal in type and quality to that provided for its own interexchange telecommunications services and those of any affiliated interexchange carrier. Not later than September 1, 1985, such equal access shall be offered through end offices of the exchange carrier serving at least one-third of the exchange access lines of the exchange carrier, and, upon bona fide request, every end office shall offer such access not later than September 1, 1986: *Provided*, That with respect to access provided through an end office employing switches technologically antecedent to electronic, stored program control switches or those offices served by switches that characteristically serve fewer than 10,000 access lines, an exchange carrier may apply for a waiver pursuant to paragraph (3). Nothing in this section shall be construed to permit an exchange carrier to refuse to provide to any interexchange carrier, upon bona fide request, exchange access that is less than equal in type or quality to that provided for its own interexchange services or those of an affiliated carrier at charges reflecting the reduced cost of such access.

"(2) (1) Notwithstanding paragraph (1), in those instances in which an exchange carrier is providing exchange access for basic telephone service at the time of enactment of this section through access codes that do not permit the designation of more than one interexchange carrier, then exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide, multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

"(1) Each exchange carrier shall offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carrier of the customer's designation.

"(iii) The requirements of subparagraphs (1) and (ii) of this paragraph are subject to waiver under paragraph (3).

"(iv) At such time as the national numbering area (area code) plan is revised to require the use of additional digits, each exchange carrier shall provide exchange access to any interexchange carrier, including any dominant-regulated carrier, through a uniform number of digits.

"(3) Upon application of an exchange carrier, the Commission may grant a limited waiver of the September 1, 1986, deadline for equal access in those instances in which waiver is permitted under paragraphs (1) or (2). Such a waiver may be granted only upon a showing that for particular categories of services such access is not physically feasible except at costs that clearly outweigh potential benefits to users of telecommunications services. Any waiver granted under the preceding sentence shall be for the minimum divergence in access necessary, and for the minimum time necessary, to achieve such feasibility, and shall not be for a period greater than five years. A waiver may be renewed for additional periods upon a showing of the continued existence of the factors that justified the initial waiver: *Provided, however*, That no waiver will be required of an exchange carrier until such time as that exchange carrier receives a bona fide request for equal exchange access: *Provided further*, That in the case of an exchange carrier serving fewer than 100,000 access lines, a waiver shall be granted based upon certification that such exchange carrier has complied to the maximum extent possible, taking into account the costs and physical feasibility of providing such access with the requirement for equal access as prescribed in this section. Except upon complaint by any interexchange carrier which has made a bona fide request for equal access, the certification shall be deemed conclusive of the justification for a waiver.

"(4) The Commission shall annually report to Congress concerning the operation of this subsection. In that report, the Commission shall set forth with particularity difficulties encountered and the progress achieved in obtaining full and fair competition in exchange access. Such special report may be included as a separate section in the annual report the Commission submits pursuant to other provisions of this Act.

"(5) The Attorney General of the United States may commence an action in an appropriate district court in order to obtain compliance with a provision or requirement of this section."

On page 115, line 20, strike out "(c)" and substitute "(d)".

On page 115, line 23, insert "in an action commenced by the Attorney General" after "\$250,000".

On page 135, line 6, strike "equitable" and substitute "equal".

Beginning on line 23, page 136, strike out through line 2, page 137, and substitute "section shall, for the purpose of subsequent Commission action, have the status of decisions initially made by an administrative law judge pursuant to section 557 of title 5, United States Code."

On page 137, insert the following between lines 18 and 19:

"(2) A tariff for exchange access shall be filed on an unbundled basis specifying each type of service element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services.

"(3) Every exchange carrier offering exchange access as part of a joint or through service shall offer to make exchange access

available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of such service. Where an exchange carrier provides exchange access as part of a joint or through service, no payment or consideration of any kind shall be received by the exchange carrier for the provision of such joint or through service other than through tariffs filed pursuant to this Act in accordance with the requirements of this section.

"(4) Nothing in this section shall be construed to amend, limit, or otherwise modify the authority of the Commission pursuant to sections 202(e) and 222(1)."

On page 137, line 19, strike "(2)" and substitute "(5)".

On page 138, insert the following before line 1:

"(f) (1) Notwithstanding any other provision of this section, after September 1, 1986, the charges for the less-than-equal exchange access provided by an exchange carrier to a nonaffiliated interexchange carrier pursuant to a waiver under section 207(c) (3) shall be no greater than (A) the charges for the type of exchange access provided to the exchange carrier or affiliated carriers that were the subject of the waiver proceeding, less (B) the decreased value to the nonaffiliated interexchange carrier and its customers of the exchange access provided such carrier in comparison with the exchange access provided the exchange carrier or its affiliated carriers. From the date of enactment of this section until September 1986, if an exchange carrier fails to provide equal exchange access to a nonaffiliated interexchange carrier, a tariff of the exchange carrier reflecting the decreased value of the less-than-equal access shall also be considered in conformance with this section. Tariffs reflecting an agreement among carriers as to the decreased value of less-than-equal access shall be considered by the Commission to be in conformance with this paragraph.

"(2) This section shall not be construed to require a regulated exchange carrier to allow joint use of its switches used exclusively to provide interexchange telecommunications, or to require such a carrier to allow collocation in its buildings of the equipment of other carriers. For the purposes of this section, when a dominant-regulated carrier uses facilities that (A) are employed to provide exchange telecommunications or exchange access or both, and (B) are also used for the transmission or switching of interexchange telecommunications, then the costs of such latter use shall be allocated to the interexchange use and shall be excluded from the costs underlying the determination of charges for either of the former uses.

"(3) No payments by an exchange carrier to a dominant-regulated carrier under a license agreement, contract, or otherwise shall be included as a cost underlying the determination of charges for exchange telecommunications or exchange access to the extent that such payment is utilized to provide research, development, manufacturing, engineering, or management of facilities or services (including software programming) used to provide interexchange telecommunications."

On page 138, line 1, strike "(f)" and substitute "(g)".

On page 138, line 18, strike "(g)" and substitute "(h)".

On page 138, add the following between lines 22 and 23: "Notwithstanding any other provision of this Act, until such standards, procedures and criteria have been implemented through the filing of exchange access tariffs, no interexchange carrier shall be required to pay more for exchange access than is paid by any other interexchange carrier or customer for similar services or facilities."

On page 138, line 23, strike "(h)" and substitute "(1)".

On page 139, strike lines 13 through 20 and substitute the following:

"(j) For purposes of this section and section 207 the term—

"(1) 'Exchange access' means the provision of exchange services by an exchange carrier for the purpose of originating or terminating interexchange telecommunications including those of the exchange carrier. Exchange services shall be provided by facilities in an exchange area for the transmission, switching, or routing of originating or terminating interexchange traffic, and such facilities shall include a point of concentration above the local end office, and trunking thereto, of interexchange traffic.

"(2) 'Exchange services' include any activity, information services or function performed by an exchange carrier in connection with the origination or termination of interexchange telecommunications, or for the benefit of any affiliated interexchange carrier, including but not limited to, the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities and the provision of information necessary to bill customers. Notwithstanding subsection 207(c) of this Act, an exchange carrier that bills its subscribers for sums due to an affiliated interexchange carrier shall not be required to bill for interexchange services performed by a nonaffiliated carrier: *Provided, however,* That such an exchange carrier may not discontinue local exchange service to enforce collection of interexchange charges unless such exchange carrier is also within the group of carriers not classified as regulated carriers in section 203(a).

"(3) 'Exchange carrier' means any carrier engaged in providing exchange telecommunications services or in providing exchange access to the facilities of a carrier providing regulated exchange telecommunications."

(Purpose: To assure use of rights of way to competitors of A.T. & T.)

On page 130, line 12, strike out all after the first period.

On page 130, between lines 12 and 13, insert the following:

"(h) When any carrier is unable to obtain the rights of way, including use of poles, ducts, and conduit, required for rendition of its services without undue expense or consumption of time, the Commission may order regulated carriers having such rights of way to permit the carrier to use them subject to such terms as the Commission shall find in the public interest."

Mr. BAKER. Mr. President, I ask the Senator to add my name as a cosponsor.

Mr. THURMOND. I ask unanimous consent that the able chairman of the committee be added as a cosponsor to the amendments.

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

Mr. THURMOND. Mr. President, I send to the desk a statement explaining each amendment, and ask unanimous consent that the statements be printed in the RECORD.

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

PROCUREMENT POLICIES

Adds New Section 231:

The purpose of this amendment is to open the Bell System market to non-affiliated domestic manufacturers. This market has been generally foreclosed to them as a result of AT&T's near total reliance on Western Electric. The result is that the domestic telecommunications manufacturing indus-

try has too small a domestic base to export and to meet rising foreign competition in this country. By increasing domestic sales, this amendment will facilitate greater research and development by domestic manufacturers and thus enhance their competitive position abroad.

At the same time, the amendment contains safeguards against unfettered foreign intrusion into domestic markets. By reference to Section 240 of the Act, the amendment permits exclusion from its application of competition from any foreign country where AT&T does not have reciprocal sales rights.

The amendment requires AT&T to adopt a procurement policy with respect to telecommunications products used or sold by AT&T and/or any of its affiliates. As part of this policy, AT&T is to evaluate product purchases on the basis of merit rather than automatically purchasing products from AT&T's manufacturing affiliate, Western Electric.

The amendment further requires AT&T and its affiliates to increase their outside purchases at a gradual but steady rate of twenty per cent (20%) per year for a period of five years. It is expected that this will be sufficient to open the market so that over the succeeding five years the percentage requirement may be gradually phased out without any adverse impact on competition. Moreover, Congress will be kept apprised of the progress achieved in obtaining full and fair competition by means of an annual report by the Commission. This will permit Congress to reconsider the phase out if the formula is not effective at achieving its goal.

The amendment also safeguards our national defense capabilities by providing that equipment purchases essential for national security purposes can be limited to domestic suppliers.

PATENT LICENSING AND TRANSFER

Amends Section 229(d) (2) and (3); Adds New Section (e):

S. 898 currently provides that all patents developed by the FSA with its own funds are not subject to the 1956 Consent Decree provisions. This decree requires that patents developed through the use of monopoly rate payer funds be available to others on either a cross-licensing or payment basis. Without amendment, the bill could have been interpreted as permitting non-FSA patents to be transferred to the FSA. This amendment closes that potential loophole by clarifying that no patent developed by AT&T before the FSA is established, can be transferred to the FSA in order to avoid the provisions of AT&T's 1956 Consent Decree.

SPECIFIC PROHIBITION OF CROSS SUBSIDIZATION

Amends Section 202(c) (1):

This amendment clarifies that the Commission has the authority to prohibit cross subsidization as well as other anticompetitive practices. Cross subsidization is highlighted since it has the potential of a serious negative impact on the competitive health of the entire telecommunications industry.

COMMISSION REQUESTS FOR INFORMATION

Amends Section 227(h):

The purpose of this amendment is to put the Commission in a position to compare the records of the FSA with the records of the regulated portions of AT&T in order to detect cross subsidies. The amendment authorizes the Commission to request the FSA to produce books and records on an information basis so that the Commission can more effectively perform its oversight duties.

TRANSITION PERIOD FOR COMMISSION ORDERED DEREGULATION

Amends Section 235(b) (3) (B):

This amendment establishes a transition period, not to exceed six months, between the time when the Commission makes a determi-

nation that a telecommunications service should be deregulated and the time the deregulation becomes effective. The purpose of the transition period is to permit users of telecommunications services to adjust to the changes that might be expected to occur with deregulation.

COMPOSITION OF FSA BOARD OF DIRECTORS

Amends Section 227(a) (3):

S. 898 now provides that the FSA have not less than five members on its board of directors and that not more than fifty per cent may be employees or officers of the FSA. This means that one a five-person board, two can be affiliated with the FSA. The bill further provides for one member of the board from AT&T, the parent company. The result is that three AT&T affiliated individuals could be board members with only two from the outside.

The amendment seeks to insure that at least fifty per cent of the board be composed of outside directors. This would tend to make the FSA act more independently of the rest of the Bell System, helping to deter the possibility of anticompetitive conduction.

COST JUSTIFICATION OF TARIFFS

Amends Section 210(2) (A):

This amendment requires that tariffs be accompanied by economic cost support data establishing the justness and reasonableness of such tariffs. The amendment makes clear that it is the intent of Congress that tariffs filed under Section 210(2) (A) be cost justified, that proposed rates be just and reasonable and that no cross subsidization should occur between regulated and unregulated services.

ALLOCATION OF ADVERTISING COSTS

Amends Section 227(a) (5):

This amendment requires the FSA to carry out its own advertising, installation, and production, in addition to marketing, sales, maintenance, manufacturing and R&D. It also defines institutional advertising, which may be done jointly, to be of a type not related to specific services, facilities and equipment. It is intended to assure that the fully separated affiliate bears its full share of all costs associated with marketing and related activities in regard to its own product.

PROHIBITION AGAINST CROSS SUBSIDIZATION IN INTERNATIONAL OR NATIONAL DEFENSE CONTRACTS

Adds New Section 227(k):

This amendment clarifies that the bill's exemption of international and national defense activities from the normal separation requirements is not intended to create a loophole for cross subsidization or other anticompetitive activities that would have a negative impact on the domestic telecommunications market.

DISCLOSURE OF PROTOCOL INFORMATION

Amends Section 214(g) (1) (B); Adds New Section 214(f) (1) (C):

This amendment deals with disclosure of information to the FSA, to an affiliate providing support to the FSA (manufacturing, research and development) or to an affiliate that provides components or subassemblies to an FSA. Under the present bill, concerns exist that the FSA could gain a competitive advantage by obtaining information prior to its disclosure to competitors and in a more useful form. Also, the FSA could obtain information related to network design through its purchases of components and subassemblies from the unseparated part of AT&T.

This amendment clarifies that all information required to be disclosed regarding the network by the dominant-regulated carrier or affiliates must be disclosed in the same form and on the same basis to non-affiliated persons as it is to the FSA. It also requires that any anticipated telephone network changes which are disclosed by AT&T to the

FSA be disclosed at the same time to all competitors. There is, however, no requirement that AT&T disclose any anticipated changes before they are ready to do so.

VALUATION OF TRANSFERRED ASSETS

Amends Section 228(c) (5):

This amendment, like the original provision in the bill, establishes an assets evaluation board which is empowered to determine the value of any assets transferred from AT&T to an FSA. However, the bill currently makes AT&T a member of the Board and gives AT&T a vote in selecting the third member. This amendment is intended to exclude AT&T from the Board, and instead permits the Commission to select all three members, with the restriction that one member shall be chosen upon the recommendation of the National Association of State Commissioners. This is intended to assure a more objective evaluation of the transferred assets and thereby guard against the danger of cross subsidization through under valuation of such assets.

COMPONENTS AND SUBASSEMBLIES

Amends Section 228(c) (3) and (4); Adds New Section 228(c) (5):

The bill, as reported, allows the FSA to purchase subassemblies and components from Western Electric, which will be manufacturing for the regulated portions of the Bell System, if Western Electric offers to sell the same type of items to non-affiliates at the same charge and on the same conditions. If this market test does not work effectively, however, such sales would raise the potential for cross subsidization between the regulated and unregulated entities.

This amendment requires a complete separation of the FSA from Western Electric in the production of components and subassemblies. The commission may permit some narrow exceptions to the prohibition, but this is anticipated to be granted only where the dominant-regulated carrier would, in fact, be expected to sell the same items to competitors of the FSA, and where FSA purchases will have no anticompetitive results.

INSIDE WIRING

Amends Section 234(a):

This amendment clarifies that inside wiring installed two years after enactment will be deregulated. However, there will be a continuing requirement that persons who own or control the wiring must interconnect with any customer-premises equipment that meets established standards.

JOINT ACTIVITIES

Amends Section 227 (a) and (b):

This amendment eliminates provisions in S. 898 which permit all joint ventures and partnerships, and instead limits such joint activities to national defense and international undertakings. It also clarifies that joint use of property will be permitted only when the requirements of subsection (d) are met. The concern is that joint ventures and partnerships between the dominant-regulated carrier and the FSA, and unfettered joint use of management facilities, computer capacity and the such, would override the other separation provisions in the bill. This, in turn, would render the protections against cross subsidization between the regulated and unregulated entities significantly less effective.

This amendment further affirms that any business between the dominant-regulated carrier and the FSA for the transfer of goods, services, facilities, and property must be on a fully-auditable and compensable basis and by contract. Such contracts must be available for public inspection except for portions which contain information not necessary for enforcement of this section.

LICENSE CONTRACTS

Amends Section 227(b), Adds New Section 227(1):

This amendment prevents contracts between the dominant-regulated carrier and its affiliates which would have the effect of assigning product-related research and development (R&D), manufacturing, marketing, or management costs for deregulated services or products, to services or equipment which remain under regulation. It also requires that all costs of services provided by the dominant-regulated carrier to affiliates, including the FSA, be on a fully-auditable and compensatory basis.

At the current time, R&D within the Bell System is financed by Western Electric or through a license contract arrangement with the Bell Operating Companies whereby each operating company is assessed a fixed percentage against its revenues. This license contract, in addition to funding R&D, supports general administrative services provided by AT&T management (e.g., legal services and pension administration). The proposed amendment would require changes in the license contract to exclude charges for product-related R&D performed by AT&T that can be done on an auditable and compensable basis.

The amendment would not prohibit AT&T from funding basic R&D with rate-payer revenues from license contracts. It would require that if AT&T chooses to disclose its basic R&D to a fully-separated affiliate, it must also disclose it to the public. However, my understanding is that it is AT&T's policy to disclose basic R&D to the world, and I would expect this policy to continue. Moreover, it is the intent of this amendment that if research which began as basic becomes product-related, the costs of that research must be allocated to the product.

SPECIAL PROCUREMENT AND OPEN MARKET SALES REQUIREMENTS

Adds New Section:

This amendment deals with the sales of telecommunications equipment by affiliates of the dominant regulated carrier to the operating companies and the interexchange network. The amendment establishes that as a precondition to selling any telecommunications equipment to its regulated affiliates, the Bell System must succeed in selling the very same items of equipment to unaffiliated enterprises in open competitive markets. This imposes a check on equipment quality and price to assure that there cannot be a flow of funds out of the rate base with which the phenomenon of cross subsidization can be financed.

INTERCONNECTION AND PRICING OF EXCHANGE ACCESS

Amends Sections 207 and 222:

S. 898 currently requires every carrier offering regulated services to establish interconnection of such services and not discriminate with respect to such interconnection. It provides that all local and regulated long-distance carriers must interconnect with any telecommunications equipment, private telecommunications system, or long distance carrier which meets Commission technical standards and makes a reasonable request for interconnection. It further provides that regulated carriers must not discriminate among carriers or customers with respect to the rates, terms, or conditions of interconnection.

These amendments focus in more detail on the issue of local exchange access by interexchange or long-distance carriers. Since AT&T and other established carriers offer both long-distance (interexchange) and local (exchange) service and since other long-distance carriers must access these same exchange facilities to originate or terminate their calls, there has been some concern about possible discriminatory treatment by exchange carriers.

The amendment to Section 207 specifies more explicitly the obligations of exchange carriers to provide exchange access to all in-

terexchange carriers in a non-discriminatory manner. AT&T and other local exchange carriers would be required to offer exchange access that is equal in type and quality to that provided their own interexchange services. The amendment would require that the access be offered on an unbundled, tariffed basis according to a mandated time schedule unless a waiver is granted by the Commission under specified circumstances. In addition to resolving other specific exchange access issues, the amendment would require exchange carriers to offer a service that would automatically route all long-distance calls to a carrier of the customer's choosing, although the customer could still access other carriers by use of access codes.

The amendment to Section 222 would define the terms "exchange access," "exchange services," and "exchange carrier." Importantly, the definition of exchange access would have the effect of requiring the exchange carrier to provide a call concentrating function for collecting and distributing interexchange traffic among a number of local exchange switching offices. Such a concentration function is generally available today to the established carriers but not their competitors. The definition of exchange services spells out the type of local services that are included in exchange access and provides that while a local exchange carrier is not required to bill customers for sums due an unaffiliated carrier, it must provide the information necessary to do so.

The amendments to Sections 207 and 222 discussed above deal primarily with the type and quality of access services offered by local exchange carriers. There are further amendments to Section 222 that deal primarily with the pricing of access services and stem from the same concerns about discriminatory treatment. Basically, they seek to add further assurance: (1) that every local exchange carrier will handle the origination and termination of long-distance calls for all interexchange carriers on the same terms and conditions, and at the same charges; and (2) that the charges for access be cost justified. They explicitly prohibit an exchange carrier from obtaining any compensation except that received pursuant to tariff and also prohibit the local Bell company from including any costs of AT&T's own interexchange services in the charges for access paid by AT&T's long-distance services. The latter prohibition prevents the flow of funds from the use of monopoly local facilities to the competitive interexchange part of the business.

The amendments explicitly do not require the exchange carrier to allow joint use of switches which are used exclusively to provide interexchange telecommunications or to require such a carrier to allow co-location in its buildings of equipment of other carriers. However, when AT&T uses the same facilities for both local services and long distance, then it must allocate the costs of the latter to the interexchange use.

Moreover, I would think it preferable that the dominant regulated carrier not construct special tandem offices for exchange access for use solely by the competing interexchange carriers. To provide exchange access to the competing carriers on this basis could be expensive and might place them at a competitive disadvantage. In any case, before such an approach could be used, there would have to be a showing that the arrangement would provide "equal" treatment among all telecommunications carriers as provided in the amendment to section 222(a) (1).

The amendments also give the Commission authority to review decisions of the Federal-State Joint Board, which apportion costs between and within the interexchange and exchange services of the established carriers. Under S. 898 as currently written, the Joint Board decisions were essentially binding on the Commission.

CUSTOMER-PREMISES EQUIPMENT

Amends Section 235(c) (with conforming Amendments to Section 234(e)(1)):

S. 898 currently provides that all customer-premises equipment (e.g., telephone handsets) which is deregulated by the terms of the bill, be transferred from the Bell Operating Companies to the FSA within two years. Some of this equipment may currently be overdepreciated and undervalued. This raises concerns that the transfer would create a windfall for the FSA since it could, after the transfer, resell the equipment to customers at a profit, giving the FSA an unfair competitive advantage. Moreover, the transfer of such equipment might provide the FSA with an information advantage over its competitors with respect to the identity of current equipment customers and the type and condition of their equipment.

This amendment would permit the Commission to delay the transfer for an additional two years if the Commission determines such a delay is necessary to prevent anticompetitive impact which might otherwise result from the transfer.

Mr. THURMOND. Mr. President, unless there is some question, I think we can just take the whole group of amendments.

Mr. PACKWOOD. I move the adoption of the amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (No. 468) were agreed to en bloc.

Mr. THURMOND. I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Again, Mr. President, I thank the Senator from South Carolina for his help in proposing these amendments.

Mr. THURMOND. Mr. President, it was a pleasure to work with the distinguished Senator from Oregon on this matter. It is a matter of paramount importance. I hope we can get through with this bill as soon as possible and send it to the House.

(Later the following occurred:)

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the action of the Senate with regard to part of the language of amendment No. 468 be rescinded. The language to be deleted is as follows:

On page 172, line 18, strike "and" and substitute "and 235 (c)."

On page 172, strike lines 19 through 21 and substitute "under section 233, no dominant-regulated carrier".

On page 175, line 9, strike the quotation marks and the second period and substitute the following new sentence: "The Commission may extend this period for up to an additional 2 years if the Commission finds that such extension serves the purposes of this Act."

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. Will the Senator send that language to the desk?

Mr. PACKWOOD. It is to delete language that has been provided by Senator CANNON's amendment to the Senator's amendment.

Mr. HOLLINGS. I have no objection. The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I wish to address a question to the distinguished junior Senator from South Carolina, if I may.

As I understand it, we are attempting to work out a compromise in conference on the "ratepayer" amendments?

Mr. HOLLINGS. That is correct, Mr. President. I am working with my staff and the staff of the distinguished Senator from Nevada (Mr. CANNON).

Mr. PACKWOOD. I believe the amendment of the Senator from South Carolina is now the pending amendment. Would he agree to setting it aside as pending business so we may take up the amendments of Senator CANNON and Senator GOLDWATER on cable television?

Mr. HOLLINGS. That is fine with me, Mr. President.

Mr. PACKWOOD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that we set aside the amendment of the Senator from South Carolina (Mr. HOLLINGS) and take up the amendment of the Senator from Nevada (Mr. CANNON) and the Senator from Arizona (Mr. GOLDWATER) concerning cable television.

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

UP AMENDMENT NO. 469

(Purpose: Possible cable fee compromise)

Mr. CANNON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself and Mr. PACKWOOD proposes an unprinted amendment numbered 469.

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

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

The amendment is as follows:

Beginning on line 12, page 107, strike out through line 16, page 107, and substitute the following: "nals."

On page 107, insert the following between lines 23 and 24:

"(j) The provisions of subsections (h) and (i) shall not be construed to apply to any franchise agreements which are in effect on the date of enactment of the Telecommunications Competition and Deregulation Act of 1981."

On page 107, line 24, strike "(j)" and substitute "(k)".

On page 140, strike lines 4 through 12 and substitute "by repealing subsection (e)".

Mr. CANNON. Mr. President, Chairman Packwood and I have offered a substitute to the amendment introduced by Senator GOLDWATER addressing the cable provisions of S. 898. We seek this compromise in an effort to find a reasonable solution between the cable television operators and the communities they serve.

The cable provisions in S. 898 are not

new, nor are the concepts in the Packwood-Cannon cable amendment. Indeed, in the last Congress, legislation providing for a sweeping deregulation of the cable industry was introduced by Commerce Committee members and referred to the Commerce Committee for consideration. And, I add, extensive hearings were held on the cable television issues.

The cable issues in S. 898 have been addressed by the committee and I, for one, believe the Commerce Committee has developed an adequate hearing record to make sensible and equitable recommendations to the Senate. I fail to see why another 2 years of hearings are necessary.

The Packwood-Cannon amendment protects the right of each city to regulate basic cable television service under existing and further franchise agreements. We believe cities must maintain their right to set rates for the provision of basic service. This insures that a maximum number of people will be able to receive the retransmission of broadcast signals at affordable rates.

Mr. President, our amendment codifies the deregulation of only those pay cable services which have historically not been subject to regulation. Our objective in deregulating these pay services is to aid in the development of additional cable services so we may take full advantage of the services envisioned by the public.

We believe that regulating these now deregulated services will inhibit growth of innovative uses for cable television.

The amendment offered by Senator Packwood and me would instruct the Federal Communications Commission to continue its present policy of establishing ceilings on franchise fees paid by cable television operators to municipalities.

The limits on franchise fees established by the Commission are necessary so that cable television operators will not pay more than their fair share to municipalities and also that each city will have adequate revenues to defray the costs of local regulation.

Our amendment will repeal only that portion of the pole attachment law which imposes a 5-year sunset on the Commission's authority to set rates, terms, and conditions to access utility poles by cable operators. Our amendment does not pertain to telephone or electric cooperatives. The pole attachment law was enacted in 1978 when Congress added section 224 to the present act. This section directed the Commission to regulate rates, terms, and conditions under which cable television operators are afforded access to the poles and rights of way controlled by a utility that are essential to the provision of cable television service. This provision is scheduled to expire in 5 years after enactment. We believe the Commission should continue in its present role to best enforce the intent of Congress.

No other cable provisions would be deleted from S. 898, Mr. President. We reaffirm the rights of cities to provide access channels for public, educational, and governmental use.

Our compromise would preserve the

current relationship between cities and cable operators. We believe this is a fair solution which best enables the cities and cable operators an opportunity for continually improved service to the public.

Mr. GOLDWATER. Mr. President, I have to oppose the Packwood-Cannon amendment for a number of reasons, but chiefly because it is not a compromise. I repeat, it is not a compromise. I want to read a statement by the National League of Cities and the U.S. Conference of Mayors:

On behalf of the nation's cities we wish to thank you again for your steadfast and courageous leadership in bringing the Goldwater Amendment to S. 898 to the Senate floor this morning. Having observed the debate throughout the day, we thought it might be useful to clarify and emphasize some major points.

We support the Goldwater amendment because:

There have been no hearings on Municipal Regulation of Cable.

Let me repeat, Mr. President: There have been no hearings on cable television, even though I, as chairman of the subcommittee, have promised the cable television industry that we would not legislate without hearings.

It's one thing to talk about general hearings on telecommunications in 1981 or 1979. However, the most important point is that municipal/cable relations were not a subject of those hearings. Municipal officials were specifically told that cable would not be included in 898 and that cable would be dealt with in a separate bill after the Commerce Committee completed action on S. 898. As a result, we were not involved in the development of S. 898.

No representatives of cities "acquiesced" in the S. 898 mark-up. City representatives discovered the cable provisions barely 24 hours before the mark-up. We did what we could to ensure that access channels were not prohibited, but we did not in any way agree to drop our opposition to the cable provisions.

Cities and Mayors look forward to a separate Cable bill. The U.S. Conference of Mayors and the National League of Cities, as well as all members of the Coalition to Delete Cable TV Provisions from S. 898, look forward to sitting down with members of the Senate Committee on Commerce, Science and Transportation, as well as the cable television industry, to develop a comprehensive cable television bill that makes sense to all parties. We want to do this in the open and will willingly participate in such an endeavor following passage of the Goldwater amendment and deletion of cable TV provisions from S. 898.

A Role for Local Governments in Cable Television Oversight at the Local Level. Cities wish to discuss in an open forum the positive and essential role which local governments play in protecting the public interest in franchising cable television and regulating rates for some cable services. We realize that the Goldwater amendment is aimed at procedural injustices and look forward to passage of the Goldwater Amendment so that we can have our day in court and can plainly and clearly state our substantive case before the Senate.

We oppose the Packwood-Cannon amendment because:

Cities in no way participated in its preparation. The Packwood-Cannon Amendment, again at the 11th hour, with no consultation hearings or discussions, attempts to set the framework for cable/city relationships for

the future. We appreciate Senators Packwood and Cannon's view that their amendment meets our needs. Cities themselves would like an opportunity to directly explain to all Senators how municipal regulation serves the public interest in this complicated field. Only passage of the Goldwater Amendment will allow us to have this opportunity.

The Packwood-Cannon Amendment does not guarantee cities the ability to regulate basic cable services. It has been stated that the Packwood-Cannon Amendment guarantees cities the right to regulate basic cable service. In fact, under the amendment cities could only regulate "retransmission of broadcast signals." We believe that this definition is far narrower than basic cable service which in most communities includes access programming and programming transmitted by satellite, as well as retransmitted broadcast signals.

The Packwood-Cannon Amendment does not guarantee access for programmers, other than those selected by the cable operator. Under S. 898, cities are apparently prohibited from requiring leased access. This is an important public policy question which should not be decided without careful consideration of the consequences of giving the cable operator monopoly control of programming (other than government, public, and educational access).

Cities and Mayors need a separate Cable bill. It has been alleged that cities should accept the Packwood-Cannon amendment because we will never do as well in a separate legislation. However, we believe that is not an appropriate reason for cities to suddenly decide that all concerns have been met in the cable area and that hearings and full consideration are no longer necessary. We believe that hearings and careful deliberation are essential and only the Goldwater amendment can bring that about.

We appreciate the effort of Senators Packwood and Cannon in moving in the right direction. However, for all the reasons stated above, we emphatically support the Goldwater amendment and urge rejection of the Packwood-Cannon amendment.

We thank you again and hope you will have an opportunity to share this with your distinguished colleagues.

Mr. President, I have no more to say about this. I will have a few remarks relative to this matter and to the problems rural people face under the same bill, and my amendment would correct that, too. But I will save that until my amendment is called up.

I repeat: I may wind up agreeing with the provisions in this bill, but we have had no public hearings. They will recite, yes, back in 1977 and 1979 we had some hearings. They were not extensive. They did not get into this. We did not know enough about cable television, and we still do not know enough about it, frankly, to sit down and draw legislation on cable television.

As I have said on this floor, I am a great backer of cable television, which I use in my home. I am a firm believer that it will replace antenna television. But I want to see us go about this in a right way and not use material that was injected at the last moment by the cable television people themselves.

Mr. President, that is all I have to say, and I am prepared to vote on the Packwood-Cannon amendment.

Mr. PACKWOOD. Mr. President, let me respond, because I know that everyone involved in this debate is acting in good faith.

First, in the bill, there are several provisions relating to cable. There is a provision permitting telephone companies to offer, cable television. That section has been in S. 898 since its introduction. So to say that there was no provision effecting cable until these amendments were introduced at committee markup is wrong.

Second, this is what the Packwood-Cannon amendment does. I might say, initially, that there are varying mistakes in communications. Senator CANNON and I thought we had the acquiescence of the lobbyists who represent the cities here. Obviously, we were wrong. They did not agree to it, but we thought they did at the time we put it in. There is no question that they did not agree to the present amendment. But for those who have been getting letters from their municipalities, let me explain what this amendment does.

First, there is a grandfather clause. Any existing franchise is not affected, period. This does not change any right the municipality has under the present franchise.

Second, the present pole attachment law is not changed. The change we had made in the bill was to extend the requirement to electric and telephone cooperatives and municipally owned utility companies, requiring them to grant cable companies access to their poles at reasonable rates. That requirement applies to A.T. & T. and the independent telephone companies in the United States now. All A.T. & T. operating companies and General Telephone & Electric have to allow the cable companies to attach to their poles at reasonable rates. The bill extended that to the rural cooperatives. Under the Cannon-Packwood amendment, that extension is taken out. Therefore, the law remains exactly as it is so far as pole attachments are concerned.

Third, there is no change in the franchise fee language. The municipalities are free to charge any franchise fee they wish, which the Federal Communications Commission permits. That language today is 3 percent of gross revenues and, under certain exceptions, 5 percent.

Fourth, the municipalities can require and continue to require cable companies to provide access channels—educational channels, a channel devoted to watching the proceedings of the city council and the zoning commission, a channel required for cultural use to watch the symphony and art museums.

Last, local governments, municipalities, can regulate the nonpay aspects of cable television. Frankly, this is the political problem many municipalities face. What would happen if all their viewers had been used to watching all the shows on commercial television and the rates were fixed, and suddenly they cannot fix the rates? They cannot fix rates on pay channels. Home Box Office for example.

They cannot fix the rates on smoke alarms and burglar alarms and other services offered by cable television systems, and this is most important—most of America today is not yet wired for cable. Most of the local governments have not yet let cable franchises. So most

of them are still in the bidding stage, if they have even progressed that far. Three, four or five companies are bidding, and the municipality is free, by its franchise agreement with the cable company, to put in any provision the cable company will agree to at the time of franchise.

With the competitive bidding going on and with many cable companies wanting it in every service area, the municipalities are in a great position at the time of the initial franchise to drive a hard bargain.

They are permitted to do all this under the Cannon-Packwood amendment.

So when I said yesterday that I think this solves all the problems, I honestly think it does. I believe it is as much as they would be likely to get out of days and days of hearings.

It is more than a fair compromise. It goes 95 percent of the way toward every solution they wanted.

I hope, therefore, that the Senate will adopt the Cannon-Packwood amendment as a fair, decent compromise and one which was offered and made in good faith.

Mr. DECONCINI. Mr. President, those provisions in the pending legislation (S. 898) affecting the cable television industry and its relationship to State and local government have generated considerable interest and debate. It is my understanding that they were added to the bill at the 11th hour while my colleague and friend, the senior Senator from Arizona, Mr. GOLDWATER, was out of the country. Inasmuch as his subcommittee has responsibility for these matters and inasmuch as Senator GOLDWATER has personally been extremely interested in the development of the cable television industry, I believe that procedure was inappropriate.

Given the clear fact that the cable television industry is among the most rapidly growing in the Nation and that the future impact of cable television on our daily lives is likely to be extremely great, I find the procedures adopted by the Commerce Committee questionable. Such sweeping legislation may be proper; but it is only proper after the conflicting issues have been thoroughly aired so that reasonable national policy can be developed.

Unfortunately, Mr. President, I will have to disqualify myself from voting on these sections. Although I do not feel I have an actual conflict of interest, the fact that my brother is associated with one of the companies vying for the cable contract in Tucson while the husband of a member of my Arizona staff is also associated with another of the companies might be viewed as a conflict. Furthermore, my wife and I have a financial interest in two television broadcasting companies that might conceivably be affected by the cable sections.

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

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

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. 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. PACKWOOD. Mr. President, I am prepared to vote, if no one else has any comments.

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

The assistant legislative clerk called the roll.

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

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. INOUE), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not yet voted?

The result was announced—yeas 52, nays 40, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—52

Andrews	Ford	Murkowski
Armstrong	Glenn	Nickles
Baker	Gorton	Packwood
Baucus	Grassley	Pell
Boren	Hawkins	Pryor
Bradley	Hayakawa	Quayle
Bumpers	Heflin	Randolph
Byrd, Robert C.	Helms	Rudman
Cannon	Huddleston	Schmitt
Chafee	Humphrey	Simpson
Cochran	Jackson	Stafford
Cranston	Kassebaum	Stevens
D'Amato	Leahy	Symms
Denton	Lugar	Thurmond
Dodd	Matsunaga	Welcker
Dole	McClure	Zorinsky
Domenici	Melcher	
East	Moynihan	

NAYS—40

Abdnor	Goldwater	Mitchell
Biden	Hart	Pressler
Boschwitz	Hatch	Proxmire
Burdick	Hatfield	Riegle
Byrd	Helms	Roth
Harry F., Jr.	Hollings	Sarbanes
Chiles	Jepson	Sasser
Cohen	Johnston	Specter
Danforth	Kasten	Stennis
Divon	Kennedy	Tower
Durenberger	Levin	Tsongas
Eagleton	Long	Warner
Exon	Mattingly	Williams
Garn	Metzenbaum	

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—7

Bentsen	Mathias	Wallop
Inouye	Nunn	
Laxalt	Percy	

So the Cannon-Packwood amendment (UP No. 469) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 541, AS MODIFIED

(Purpose: To delete certain provisions relating to the authority of the Federal Communications Commission, State government, and local government with regard to cable television and to delete provisions relating to pole attachments)

Mr. GOLDWATER. Mr. President, I call up my amendment No. 541 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER), for himself, Mr. WALLOP, Mr. BOSCHWITZ, Mr. PRESSLER, and Mr. LEVIN, proposes an amendment numbered 541.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I ask unanimous consent that I may amend my amendment in view of the amendment just agreed to.

The PRESIDING OFFICER. The Senator may modify his amendment.

Mr. GOLDWATER. I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

Beginning on line 20, page 106, strike out through line 23, page 107, and all that follows up to but not including line 24.

On page 107, line 24, strike "(k)" and substitute "(j)".

On page 140, strike lines 2 through 12.

Mr. PACKWOOD. Mr. President, have the yeas and nays been requested on the Goldwater amendment?

The PRESIDING OFFICER. No.

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

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

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, can I ask what the additional language was that the Senator added?

Mr. GOLDWATER. In view of the amendment just agreed to, although I do not believe the change is necessary I made changes to make such that my amendment will take care of the amendment just agreed to.

Mr. PACKWOOD. All right.

The PRESIDING OFFICER. Will the Senator suspend until Senators leave the well?

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I think every Member of the Senate is aware of the position I have taken on this and the position that mayors of the cities in the United States have taken; namely that we have had no hearings on cable television.

In 1977 maybe there was one, and in 1979 a part of one. But we have never had hearings on this because, frankly, Mr. President, we do not know enough about cable television yet to write any legislation, especially legislation that destroys a prerogative of the mayors and supervisors of this country.

Mr. President, I ask unanimous con-

sent that a telegram from the American Public Power Association, representing 1,700 publicly-owned electric systems and a letter from the United States Catholic Conference, department of communication, both supporting my amendment, be printed in the RECORD.

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

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., September 30, 1981.

HON. BARRY GOLDWATER,
Senate Office Building,
Washington, D.C.

American Public Power Association, representing 1,700 publicly-owned electric systems, urges you to support Goldwater's amendment striking cable TV provisions from S. 898. CATV provisions erode local control by imposing burdensome Federal regulations on local issues, and are too complex to resolve without hearings.

ALEX RADIN,
American Public Power Association.

UNITED STATES CATHOLIC CONFERENCE,
New York, N.Y., September 30, 1981.

DEAR SENATOR: I would like to ask your support for an amendment to be offered by Senator Goldwater during the forthcoming floor action on S. 898, the Telecommunications Competition and Deregulation Act of 1981.

Senator Goldwater, who chairs the Telecommunications Subcommittee of the Committee on Commerce, Science and Transportation, seeks to have three provisions dealing with local cable television stricken from S. 898. Specifically, these provisions would do the following:

(1) Remove some of the local authority to regulate basic subscription rates if alternative electronic media services are "reasonably available."

(2) Instruct the FCC to establish ceilings for fees to be paid to states or cities by cable companies receiving franchises. (Current FCC rules impose three to five percent of gross revenues.)

(3) Provide that utilities "shall afford reasonable access for pole attachments to any person purchasing cable services."

Senator Goldwater quite accurately points out and bases his objections on the fact that these provisions were added during final Committee mark-up of S. 898, without the benefit of any recent hearings. Thus, state and local governments, users and others aware of the tremendous importance of the burgeoning cable industry to local and national communications, have been denied an opportunity to express their ideas and concerns.

The instances of two or more cable companies competing for subscribers is extremely rare. Thus, once a franchise is awarded cable becomes a monopoly. This local regulation of cable television is not unlike the basic government responsibility exercised over other public entities using public rights-of-way. Those regulatory powers are needed to ensure that service is provided as promised, that rates are equitable, that public access be provided, and that all segments of the community be able to avail themselves of this service. Without commenting on the third provision regarding pole attachments, USCC is greatly concerned about the ability of state and local governments, under these restrictions, to negotiate, obtain and enforce those contractual agreements which best serve the needs and interests of the entire community.

It is universally accepted that any such amendments to the Communications Act of 1934 should further the needs and interests of the community. We feel there are many

serious questions regarding the efficacy of these amendments to do so.

We therefore urge your support for Senator Goldwater's amendment to delete these provisions from S. 898.

Sincerely,

MR. RICHARD H. HIRSCH,
Secretary of Communication.

Mr. GOLDWATER. Mr. President, I am ready to vote.

Mr. CANNON. Mr. President, in 1979, the Commerce Committee had hearings on 5 days (April 26, April 27, June 6-8) that dealt either partially or exclusively with the issue of cable regulation.

Of the 17 members of the Commerce Committee, 14 were on the committee when these hearings were held. Thus, the issues are not novel to the members and virtually all were prepared to vote on them in committee.

Two days before the committee markup, the League of Cities sent a letter to all members of the committee expressing their opposition to any cable provisions in the bill. Each member received such letter and hence the league itself informed the members of the issue in advance of the markup. In other words, the proposal was no secret.

The language that is in the bill we have modified by the Packwood-Cannon amendment, making it more acceptable now to cities than the original language in the bill. In my judgment, this puts the cities in a much better position with respect to the issues they were concerned about.

I think if they look at the Cannon-Packwood proposal carefully and then look at what Senator GOLDWATER has proposed, they ought to jump at this compromise proposal or certainly not complain if Congress decides in the future to deregulate cable altogether.

Mr. PACKWOOD. Mr. President, now that we have a fair number of Senators here, might I take just about 3 minutes so that everyone understands what is in this bill, what is not in this bill, so they can make a decision for themselves?

First, let me say that when Senator CANNON, I, and the committee were considering this, we thought, at the time we were doing this, we had an acceptable compromise with the National League of Cities. It was simply a mistake, period.

If the Goldwater amendment is agreed to, most of the provisions on cable television are wiped out of the bill. They are gone. If it is not agreed to, this is what will remain in the bill:

One, the grandfather clause. Any existing franchise is not affected, period.

Two, the right of any city, any municipality, that is franchising at the time of awarding the franchise—and Lord knows there are more cable companies than there are franchises since this is one of the most competitive businesses around right now—at the time of the franchise the city and the cable company can enter into any kind of an agreement they want, any kind. It is truly a free enterprise spirit.

If a cable company wants a franchise so badly that they will say, "We will give you 20 extra channels and we will pay you so much a month, and we will pay you so

much more," and they can do so at any time, when they enter into the franchise contract at the time the franchise contract is up for renewal.

Three, the municipalities can require unilaterally the provision of access channels. These are the so-called public access channels. Normally a cable company has 50 or 60 channels so they say, "We will set aside 10 channels to publicize the city council meetings, the zoning commission meetings, the symphony performances, and the junior high school choir. They are political, educational, artistic channels." The cities can require those to be set aside.

In addition, and this was the sensitive part that all of us got telegrams on, the cities were afraid, especially those with existing franchises, even though they were grandfathered, that the monthly rate paid by those who subscribe to cable could be raised unilaterally by the cable companies without the approval of the cities.

Under this amendment, the cities would continue to have the unilateral right, let alone what they might enter into bilaterally at the time a franchise is awarded, to regulate the rates on what you and I would call normal, commercial television, retransmission of "Maude," "Mork and Mindy," of anything we see on the rebroadcast channels. The fee for that can be controlled by the city council.

What they cannot control, and this is the only limitation on their power, what they cannot control unilaterally, although they could at the time of contract, is what is already pay television, Home Box Office. The subscriber pays a certain fee to see movies. This fee will be determined by the cable company. Also the prices charged for services like burglar alarms or fire alarms. Some of these services are more likely to be commercial rather than residential for a long period of time. That is basically it.

I think it is a fair—I will not use the word compromise because I know the Senator from Arizona does not think it is a compromise and the National League of Cities does not. I think it is an eminently fair proposal and I think it is as much as the cities would get if we had 5 days of hearings. I would hope that the Senate would now vote to keep in the bill the amendment we have just adopted which gives the cities 95 percent of what they want, and that we vote down the amendment of the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the statement was made that we held hearings on cable TV. I would like to clarify that no mayors and no representatives of municipal organizations testified in the 1979 hearings. There are four volumes of hearings on legislation to amend the Communications Act that were held in 1979 but no one from the League of Cities and no one from the U.S. Conference of Mayors appeared at those hearings.

The subject of municipal cable provisions was not one of the central issues of those hearings. In fact, the Senate may never have held hearings primarily concentrating on the subject on the relationship between cities and cable systems. So

the fact that one or two witnesses may have discussed cable is beside the point. The relevant fact is that the municipal regulation of rates was not a subject on which both sides testified.

The PRESIDING OFFICER (Mr. MURKOWSKI). The question is on agreeing to the amendment, as modified, of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DeCONCINI (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 59, nays 34, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—59

Abdnor	Gorton	Murkowski
Andrews	Grassley	Nickles
Baker	Hart	Nunn
Biden	Hatch	Percy
Boschwitz	Hatfield	Pressler
Burdick	Hawkins	Proxmire
Byrd,	Heinz	Riegle
Harry F., Jr.	Hollings	Roth
Chiles	Humphrey	Rudman
Cohen	Jackson	Sarbanes
Danforth	Johnston	Sasser
Denton	Kassebaum	Schmitt
Dixon	Kasten	Specter
Dole	Kennedy	Stennis
Domenici	Levin	Stevens
Durenberger	Long	Thurmond
Eagleton	Mattlingly	Tower
Exon	McClure	Tsongas
Garn	Metzenbaum	Warner
Goldwater	Mitchell	Williams

NAYS—34

Armstrong	East	Packwood
Baucus	Ford	Pell
Boren	Glenn	Pryor
Bradley	Hayakawa	Quayle
Bumpers	Heflin	Randolph
Byrd, Robert C.	Helms	Simpson
Cannon	Huddleston	Stafford
Chafee	Leahy	Symms
Cochran	Lugar	Weicker
Cranston	Matsunaga	Zorinski
D'Amato	Melcher	
Dodd	Moynihan	

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—6

Bentsen	Jepsen	Mathias
Inouye	Laxalt	Wallop

So Mr. GOLDWATER's amendment No. 541, as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I believe the Senator from New Jersey will have an amendment next. Even if there is a vote on that amendment, I see no reason why it should take more than a half hour.

We have worked out an amendment of the Senator from South Carolina (Mr. HOLLINGS), the ratepayer amendment. Whether there will be a vote on that, I do not know.

I understand that Senator BOSCHWITZ has withdrawn his amendment.

So we are getting down to where I believe we can finish this bill between 5:30 and 7 o'clock tonight, and I hope we do finish.

I yield the floor, and I believe the Senator from New Jersey is ready with an amendment.

Mr. BRADLEY addressed the Chair. The PRESIDING OFFICER. At the moment, there is pending an amendment by the Senator from South Carolina, which will have to be laid aside by unanimous consent.

Mr. PACKWOOD. Mr. President, I have talked to the Senator from South Carolina, and I ask unanimous consent that his amendment be laid aside so that we might consider the amendment of the Senator from New Jersey.

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

UP AMENDMENT NO. 470

(Purpose: To provide not less than one very high frequency commercial television broadcasting station be located in each State)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 470.

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

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

The amendment is as follows:

On page 178, line 2, insert "(a)" after "Sec. 238."

On page 180, insert the following between lines 21 and 22:

(b) Section 307 of the 1934 Act is amended by adding to the end thereof the following new subsection:

"(f) In order to carry out the intent of subsection (b) of this section, it shall be the policy of the Commission to assign channels for very high frequency television broadcasting in a manner which ensures that not less than one such channel shall be licensed to a commercial station located in each State, if technically feasible. If the Commission at any time on or after January 1, 1980, declines to renew, or revokes, the license of any very high frequency commercial television station whose authorized channel of operation is assigned to a State with more than one such assignment, it shall, if technically feasible, assign such channel to a State in which no very high frequency television broadcasting station is operating commercially."

Mr. BRADLEY. Mr. President, this is exactly the same amendment that the Senate adopted on the reconciliation bill of the last period. The amendment would reallocate a commercial VHF television station from a State that has such television stations to a State that does not

have any commercial VHF television station. The amendment reads in part:

If the Commission at any time on or after January 1, 1980, declines to renew, or revokes, the license of any very high frequency commercial television station whose authorized channel of operation is assigned to a State with more than one such assignment, it shall, if technically feasible, assign such channel to a State in which no very high frequency television broadcasting station is operating commercially.

Mr. President, New Jersey is one of two States in this country that do not have a commercial VHF television station. There are many States that have 5, 6, 10, 12 television stations. New Jersey has 7½ million people but no commercial VHF television stations. There are six commercial VHF stations in New York and four substations in Philadelphia.

This amendment would rectify what is a very serious problem for the State of New Jersey. I do not speak here of access by political candidates to the airwaves, but I speak of serious public issues. For example, in the last several years, New Jersey has had a number of very serious toxic waste spills.

Toxic wastes generally are a serious problem. There are over 233 dump sites in the State of New Jersey.

A commercial VHF television station that was located in New Jersey would, I think, have a higher degree of responsibility in simply conveying information to the public so that they do not panic.

Last year we have had a major water shortage. Information about that water shortage could have been conveyed on television to the citizens of New Jersey. As it was we had virtually no information because the commercial VHF television stations were not located in New Jersey.

So, Mr. President, this is a very simple amendment. It simply says that if a station becomes vacant, available, due to a decline of renewal or revocation that it shall be allocated to the State that has no television station.

Again, there are only two States in the Union: New Jersey is one; Delaware the other.

I ask unanimous consent that Senator WILLIAMS be listed as a cosponsor of this amendment.

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

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

Mr. WILLIAMS. Mr. President, will the Senator yield for 1 minute?

Mr. BRADLEY. I yield.

Mr. WILLIAMS. Mr. President, I applaud my colleague for his initiatives in bringing this again to the Senate, and I also say that our unique situation is well understood by members of the committee who bring this bill here.

Certainly the Senator from Arizona and the Senator from South Carolina over the years have understood fully how we have in New Jersey been unable to be part of modern-day communications, being one of two States without a VHF facility. This will make it possible.

I express my gratitude for the understanding of our situation on the part of the committee.

Mr. PACKWOOD. Mr. President, I indeed sympathize with the plight of the State of New Jersey. I went to law school in New York and I know the difficult situation with which New Jersey is faced. New Jersey must rely upon either New York or Philadelphia for television, both of which are good television markets, but obviously they have a tendency to concentrate their news coverage on their own markets. Thus, New Jersey comes out on the low end of the totem pole.

I have some ambivalent feelings about mandating by statute the allocation of a television station.

This bill does not quite mandate it, only if indeed the Commission does not grant renewal. The particular station involved happens to be an RKO station, which is faced with the problem as to whether or not the sin of its parent, which was apparently found guilty of violating the Foreign Corrupt Practices Act, will be visited on the subsidiary. The courts will ultimately determine whether this is a sufficient reason to deny them their license.

I wish to make sure that I understand one thing from the Senator from New Jersey. To the extent that RKO wins and to the extent that their license is renewed, this is not a mandate to take away their license. This is simply a mandate to say if a license becomes available because of revocation or failure to renew then New Jersey shall be given preference.

Mr. BRADLEY. The Senator is correct, that there must be a failure to renew, decline to renew, or revocation.

I state for the record, however, that in proceeding before the FCC on the regulatory path RKO has stated for the record that, if indeed they remain the owner of the channel, they would have no objection if they were allocated to New Jersey. So I think the Senator is protected there.

It is clearly the intent of the amendment and the party involved understands that and concurs with the move if indeed the regulatory route were exhausted.

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

Mr. PACKWOOD. I am happy to yield.

Mr. GOLDWATER. Mr. President, I concur in the observations of my chairman. I think it would probably be wrong for us to try by legislation to award a license anyplace, but I see nothing wrong in our committee and the full Commerce Committee making it abundantly clear to the FCC that we would like to see every State in this Union have at least one station. I think we can recognize why New Jersey has not had a station and why Delaware has not had a station. The other single television station States are in New England.

But I see no reason why a station should not exist in the State of New Jersey so that its local problems can be explained. A station in New York is not going to particularly direct its remarks to a sewage problem in New Jersey or a road problem or a problem of education where a station in New Jersey can direct its full resources at that, and I think that

is one of the great attributes of television and radio, the ability to explain local situations to local people.

The press just does not seem to get it through because they spend too much time, whether it is New Jersey or Timbuktu, trying to explain what happens all over the world instead of what is happening in their own backyards.

I can say to my friends from New Jersey what I told them before. In my position on the Subcommittee on Communications, I will certainly do everything in my power to see to it that the Chairman of the FCC and the members of that body are sufficiently aware of what we would like to see happen, and I am sure that whatever we come out with here will be a further inducement to those people to do what I think is fair.

Mr. BRADLEY. I thank my colleague from Arizona for his continued support of this amendment. He did support it by speaking in favor of it in the Chamber during the reconciliation bill, and I am pleased that he continues to be concerned that New Jersey, which has no commercial VHF station, have available to it a commercial VHF station if there is a decline of renewal or revocation of an existing station.

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

Mr. PACKWOOD. Mr. President, if the Senator will withhold, we are prepared to accept the amendment. I think I can guarantee it will pass overwhelmingly. Unless the Senator insists on the yeas and nays, both Senator CANNON and I are willing to accept it.

Mr. BRADLEY. Mr. President, I wish to have the yeas and nays. I think it important that the Senate be recorded on this vote.

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

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

The yeas and nays were ordered.

NEW JERSEY'S NEED FOR A TELEVISION STATION

Mr. WILLIAMS. Mr. President, 20 years ago, New Jersey found itself to be one of only two States in this Nation with no commercial VHF television service.

In 20 years, the telecommunications industry has blossomed, network and local news programing has become infinitely more sophisticated and New Jersey has been left out. It is not fair and that is why Senator BRADLEY and I rise today to offer this amendment.

I must remind my colleagues that this same amendment was accepted by the Senate on June 25, 1981, as an additional provision to the reconciliation measure. While I was reluctant to offer that type of substantive addition to reconciliation, that action was taken in view of the fact that many other substantive provisions were added by the Commerce Committee to that measure, and in light of the long and frustrating struggle which has been waged on this matter over the years.

Unfortunately, and to my mind inexplicably, the substance of that amendment was not one of the communications provisions to emerge from the Conference Committee on Reconciliation.

So, once again, we must seek to establish equity for the citizens of New Jersey who so desperately require at least one VHF source of news and public affairs based in the Garden State.

Over the years, many of us in New Jersey have worked to rectify New Jersey's lack of commercial VHF television. I have served for a decade as cochairman of the New Jersey Coalition for Fair Broadcasting, a citizen's group formed to advocate New Jersey's cause.

The coalition petitioned the Federal Communications Commission in 1974 to seek relief and we all were heartened when the Commission found, quote, that "New Jersey's television needs and its overall circumstances constitute a special case warranting unique and responsive action by the Commission."

But, Mr. President, that finding occurred 7 long years ago and New Jersey still does not have its own VHF TV station.

The Commission has explored a variety of options, it has asked New York and Philadelphia stations to pay more attention to my State, it has even suggested that we might fill the airwaves with UHF programing about New Jersey.

But none of the solutions or recommendations can alter the fact that when people tune in the TV, they tune in the big stations with a strong signal. And if you live in New Jersey, it means that when you flip on the switch you will hear all about the latest transit strike in New York, what the city's delightful mayor is doing, or what's happening in the City of Brotherly Love.

But you hear and see precious little about what is going on in your own backyard.

Nor will the growth and development of cable TV alleviate the situation, for there will still be millions of New Jerseyites who will not be cable subscribers. And even for those who do take advantage of this new service, their additional viewing choices will consist of movies and sports, but not an adequate New Jersey-based news service.

Mr. President, there have been studies and articles over the years which suggest that New Jerseyans have trouble identifying with their State because there is no television station to help focus attention on the issues, problems, and success stories which would give people greater understanding of the place they call home.

That is now beginning to change and New Jerseyans are becoming even more proud of their State. We need a television station to invigorate our self-awareness and to teach us more about ourselves. It should be such a simple thing and with action today by the Senate, an appropriate, sensible and efficient solution may be discovered in short order.

The amendment which Senator BRADLEY and I again offer would simply say that the policy of this Nation is to insure that each State has at least one commercial VHF television station. That is not particularly radical or complex and it is certainly in keeping with the spirit, if not the letter, of the original Communications Act of 1934.

Second, our amendment provides that if a station becomes available for relicensing in a State which already has other VHF television stations, then the Federal Communications Commission should give that station to a sister State with no VHF station when it is technically feasible to do so.

This provision will have no dramatic impact on the distribution of licenses across the Nation. In fact, there is probably only one situation where it would apply and that situation is, not surprisingly, New Jersey. Should a station become available in a city like New York, either through litigation or action by the FCC, then this amendment would give the FCC the clear mandate it needs to reallocate the station to New Jersey.

And that solution, ladies and gentlemen of the Senate, would be a blessing to the 7 million residents of my State who do not enjoy the kind of VHF television service which they deserve.

We have debated this provision over the years. Senator BRADLEY and I and Senator Case before that have testified, and introduced and sponsored and amended and now is the time, finally, to gain the action from the Senate which we have awaited for so long.

I am delighted that interest in this amendment has been shown by many capable and distinguished members of the Commerce Committee, and I know that some of them sympathize with my sense of frustration over New Jersey's plight. Senator GOLDWATER, during the June debate, stated that he "could not agree more" with the substance of the amendment, that "it does not make any sense for a State not to have a television station." And Senator HOLLINGS, while expressing his concern in regard to the amount of substantive language finding its way into the reconciliation measure, remarked, "I agree and support the initiative" of the New Jersey TV amendment.

I appreciate their concern and I would certainly appreciate the support of my colleagues on this seemingly small, but very important amendment. The people of New Jersey will thank you.

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

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

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

The PRESIDING OFFICER (Mr. EAST). Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 86, nays 4, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—86

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Murkowski
Baucus	Glenn	Nickles
Biden	Goldwater	Nunn
Boren	Gorton	Packwood
Boschwitz	Grassley	Pell
Bradley	Hart	Proxmire
Bumpers	Hatch	Pryor
Burdick	Hatfield	Quayle
Byrd	Hawkins	Randolph
Harry F., Jr.	Heflin	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Rudman
Chafee	Huddleston	Sarbanes
Chiles	Humphrey	Sasser
Cochran	Jackson	Schmitt
Cohen	Jepsen	Simpson
Cranston	Johnston	Stafford
Danforth	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Kennedy	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Long	Tsongas
Domenici	Matsunaga	Warner
Durenberger	Mattingly	Weicker
Eagleton	McClure	Williams
East	Melcher	Zorinsky

NAYS—4

D'Amato	Moynihan	Specter
Helms		

NOT VOTING—10

Baker	Laxalt	Pressler
Bensen	Lugar	Wallop
Hayakawa	Mathias	
Inouye	Percy	

So Mr. BRADLEY's amendment (UP No. 470) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from South Carolina.

Mr. PACKWOOD. Mr. President, might I yield just for a moment to the Senator from New Jersey so that he may add two cosponsors to the amendment just agreed to?

Mr. BRADLEY. Mr. President, I ask unanimous consent that Senator BIDEN and Senator ROTH be added as cosponsors to the amendment just agreed to.

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

Mr. PACKWOOD. Mr. President, it would be my hope that we could take up the two amendments of the Senator from South Carolina. The first is rate payer amendment, on which I believe there is agreement. Then there is the outside shareholder amendment. I hope we can finish both amendments by 5 o'clock.

The Senate will be briefed at 5 o'clock by Secretary Haig on the situation in the Middle East. I do not know what the plans of the Senate are for recessing during that period of time, but I doubt if any Senators will be on the floor during that briefing.

In any event, Mr. President, I am sure the Senator from South Carolina is ready to proceed.

AMENDMENT NO. 578

(Purpose: To amend the Communications Act of 1934 to ensure that telephone users pay reasonable rates)

Mr. HOLLINGS. Mr. President, I think we ought to ask the Senate to take up the ratepayer amendment and the ownership amendment, so I ask unanimous consent that we move to consideration of the ratepayer amendment that I have up there.

The PRESIDING OFFICER. Without objection, the clerk will state amendment No. 578.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an amendment numbered 578:

RATEPAYER PROTECTION

SEC. . . Notwithstanding any other provision of this Act, in order to protect ratepayers of basic, regulated, and exchange telecommunications services, the Commission shall—

(1) review and modify as required any decision of the Assets Evaluation Board (established under section 228(c)(5) of the 1934 Act) to ensure that such decision—

(A) is not arbitrary and capricious,
(B) is not inconsistent with the policy or purposes of this Act, or

(C) does not harm the ratepayers of basic, regulated and exchange telecommunications services;

(2) require that any customer-premises equipment that is recorded in the accounts of the dominant-regulated carrier on the date when a fully separated affiliate is established shall remain under regulation for its remaining life;

(3) provide users of basic telephone service and other regulated telecommunications services with public notice and an opportunity to seek rejection, or a hearing with respect to any tariff filed pursuant to section 210(a);

(4) extend the period specified in section 228(g) of the 1934 Act for a period not to exceed 2 years where the services or facilities specified in such subsection are not subject to effective competition or where it is necessary to protect ratepayers from degraded service; and

(5) for a period of 5 years after the date of enactment of this Act, a State commission shall not be precluded from taking into account for ratemaking purposes revenues derived from printed yellow pages.

Mr. HOLLINGS. Mr. President, I understand that the distinguished Senator from Nevada, our ranking member, will present an amendment in the nature of a substitute to my amendment, which has been agreed to by the Senator from Oregon, the Senator from Nevada, the Senator from South Carolina, and others who have been working on this problem of ratepayer protection. I yield so he may present his substitute.

UP AMENDMENT NO. 471

(Purpose: To amend the Communications Act of 1934 to protect ratepayers of basic, regulated, and exchange telecommunications services)

Mr. CANNON. Mr. President, my distinguished colleague from South Carolina has offered the ratepayer protection amendment. I believe the amendment we have worked out now, while a slightly different version, would be a good substitute for his amendment, which has a great deal of merit. I offer this amendment on behalf of myself, Senator Hol-

LINGS, Senator PACKWOOD, Senator THURMOND, Senator FORD, Senator DECONCINI, and Senator BAUCUS.

The substitute I offer is identical in its intent—to protect ratepayers of basic, regulated, and exchange telecommunications services. The substitute has five provisions, which capture the essence of the five provisions advocated yesterday by Senator HOLLINGS.

Although I see no need to describe these provisions in the same eloquent detail as Senator HOLLINGS did yesterday, I will describe them briefly.

First, the amendment provides that the Commission may review and modify decisions of the Assets Evaluation Board. The only difference from Senator HOLLINGS' proposal yesterday is that our substitute incorporates the standard of review upon which we have previously agreed that the Federal Communications Commission should use in reviewing decisions of the Joint Board which is established by section 222 of the bill. We believe this standard of review ("arbitrary or capricious or otherwise not consistent with the policy or purposes" of the Act) is somewhat clearer than the standard proposed yesterday.

Second, S. 898 requires that customer premises equipment continue to be offered under tariff for a period of 2 years. Yesterday's proposal would have lengthened this to an indefinite period for a dominant regulated carrier by requiring it to keep existing equipment under tariff for all its remaining life.

Although I can agree with my friend that a longer time period is needed than is provided for in S. 898, I do not believe that an indefinite period of time is proper. Terminal equipment should not be offered indefinitely by both the regulated part of A.T. & T., and at the same time, by the new unregulated affiliate. We propose that the time period during which existing equipment continues to be regulated be extended from 2 years to 3 years and that, in addition, the FCC be given the authority to extend the time period for up to 2 additional years if it determines that doing so is necessary to protect ratepayers. Thus, we are providing a transition period of up to 5 years compared with the 2 years now in S. 898, and at the same time, providing a date certain in the future when all customer premises equipment will be deregulated.

Third, the amendment offered yesterday would have required the Commission to provide public notice and the opportunity to protest tariffs filed under section 210(a). In this respect, our substitute is identical to the one offered yesterday. We also agree that the FCC should retain its existing power to suspend tariffs and hold hearings in order to investigate tariffs.

Fourth, our substitute is similar to the amendment offered yesterday in directing the FCC to extend the period of time provided in section 228(g) for 2 extra years where the Commission finds that the facilities in question are not subject to effective competition. Section 228(g) now provides that the fully separated affiliate of a dominant regulated carrier may not be provided any services or facilities for a period of 2 years when those

services are required to be offered (by section 235) under tariff for the same 2 years. The two sections (228(g) and 235) taken together provide a basic transition mechanism: Existing services are to continue under regulation for 2 years and the new affiliate cannot offer those services at the same time. The effect of Senator HOLLINGS' suggestion which we have adopted is to extend that transition period whenever the Commission finds that facilities are not subject to effective competition.

Fifth and last, our substitute deals with the issue of yellow page revenues which some States consider for ratemaking purposes. At the present time, the yellow pages are not regulated. Nevertheless, some States have been successful in using the profits earned through the publication of the yellow pages to count against the revenue needs of regulated service and thereby reduce local rates. Other States have either not chosen to do so or the courts have ruled that they may not do so. In S. 898, as we voted it out of the Commerce Committee, we attempted to end cross subsidies between regulated services and unregulated services.

I believe the principle is a sound one that no one would disagree with: Profits earned in unregulated, competitive services are not to be used to subsidize regulated services, and losses incurred in competitive services are not to be borne by the ratepayers of regulated services. S. 898 as it stands before you is philosophically consistent with the desire to prevent cross subsidies—they may not flow either way—and this means that yellow page earnings could no longer be used to offset local revenue needs.

I believe that this is appropriate long-term policy. I cannot accept the proposal that all States should be able to count upon such revenues flowing from unregulated services. Nevertheless, I realize that a transition period is needed for some States. Therefore, our substitute incorporates a transition period of 4 years during which States which now offset revenue needs with yellow page earnings may continue to do so.

Finally, Mr. President, the substitute would require the full affiliate to file reports with the Securities and Exchange Commission.

Mr. President, that is a simplification of the amendment. I ask for its adoption.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk? The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON), for himself, Mr. HOLLINGS, Mr. PACKWOOD, Mr. THURMOND, Mr. DECONCINI, Mr. FORD, and Mr. BAUCUS, proposes an unprinted amendment numbered 471.

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

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

The amendment is as follows:

In the previously agreed to amendment on page 153, line 1, strike "commissions," and substitute "commissions, unless the Commission determines it to be arbitrary or

capricious or otherwise not consistent with the policies or purposes of this Act."

On page 175, lines 8 and 9, strike "for a period of not less than 2 years from such date," and substitute "for a period of 2 years from such date, except that any customer premises equipment recorded in the accounts of a dominant-regulated carrier on such date shall continue to be made available under tariff for a period of 3 years from such date. The period of time during which customer-premises equipment recorded in the accounts of a dominant-regulated carrier shall continue to be made available under tariff may be extended by the Commission for a period of time of not to exceed 2 additional years."

On page 143, line 11, insert "(including filing such annual reports as may be required by the Securities Exchange Commission, if the fully separated affiliate were a possibly held corporation)" after "requirement".

On page 119, line 18, strike "or".

On page 119, strike line 23 and substitute "lawful; or".

On page 119, insert the following between lines 23 and 24:

"(iv) set for a hearing and suspend a tariff filing for a period not to exceed 4 months from the proposed effective date of the tariff, for good cause shown."

On page 121, after line 8, insert the following:

"(7) The Commission shall provide users of basic telephone services and other regulated telecommunications services with public notice and an opportunity to seek rejection or a hearing with respect to any tariff filed pursuant to this subsection."

On page 156, add the following at the end of line 2: "For facilities, the Commission shall extend such period of time for a period not to exceed 2 additional years where the services or facilities of the dominant regulated carriers are not subject to effective competition."

On page 122, strike the period at the end of line 20 and substitute the following: ", except that for a period of 4 years beginning after the date of enactment of this subsection, nothing in this Act shall prohibit a State commission from taking into account revenues derived from printed yellow pages for ratemaking purposes."

The PRESIDING OFFICER. The amendment as presented is not in order. It will take unanimous consent to consider it as a substitute to the Hollings amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that it be in order to consider the amendment as a substitute for the Hollings amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am encouraged by this amendment. I hope the Senate will adopt it now without a rollcall vote.

Mr. HOLLINGS. Mr. President, I appreciate the cooperation and the chance to effect this compromise. I learned long ago that a man convinced against his will is of the same opinion still. But you take what you can and move to legislation which is more competitive and has a more clearly defined line of authority and responsibility. The valuation of equipment is an important thrust of the entire bill in deregulating A.T. & T. and forming its fully separated subsidiary.

As I understand, the first section is the part about giving the FCC the authority to determine whether or not there is

arbitrary or capricious action by the Assets Evaluation Board. The next section has to do with the life of on-premises equipment. We proposed in the original amendment that this now substitutes for that the equipment would be there and regarded as of value for the life of the equipment. The compromise says that this equipment shall be kept in the regulated rate base for 3 years and that the Commission may extend it for another 2 years.

Moving on, we take the original authority under the Communications Act of 1934 and we reinstate that authority of the FCC with respect to the filing of tariffs, so that we have the suspension section reinstated, with a 4-month time period and then there is a requirement that the Commission give notice and a hearing. That is provided for in those next two sections.

On the facilities, we comprised at two plus two or 4 years. I never did want any facilities in a wholly owned subsidiary, because I wanted to make certain it operated without any damage whatsoever to its basic, public common carrier telephone service to customers in America. But the compromise as is at least gives us a transition period for those who would compete to brace themselves.

The next to last section, on the yellow pages, says that we compromise on a 4-year period rather than a 5-year period for the States to continue to include the yellow pages and the revenues received therefrom in the ratemaking process.

I ask the distinguished Senator from Oregon or Nevada, either one, to read the last section, because this has been

worked on by staff and I understand there is a section in there, that I just glanced at but do not have in my copy, that requires the fully separated subsidiary to file such forms as are required by the Securities and Exchange Commission of publicly held corporations.

Mr. PACKWOOD. Mr. President, that is the language from the next amendment, section 227(a)(1)(a), of the exact language.

Mr. HOLLINGS. That is what is required by that last section?

Mr. PACKWOOD. That is correct.

Mr. HOLLINGS. That would require, then, a form 10(k) to be filed.

Mr. PACKWOOD. It requires whatever the Senator's language requires. We debated this yesterday and I said I am not a lawyer, but it requires whatever the Senator's language requires.

Mr. HOLLINGS. It would be, then, in particular a form 10(k). It so happens that I brought to the floor and have in my hand the form (M) used by the FCC and the 10(k) form used by the Securities and Exchange Commission for the American Telephone & Telegraph Co. By reading form (M), you can see the one by the Federal Communications Commission would not be that useful to the investing public. If you look carefully, you see all the particular requirements and information, far more voluminous, open, and revealing, in a sense, required by the Securities and Exchange Commission.

Ordinarily, the habit here is to ask unanimous consent that they be printed, but I forego that, because it would be just a big printing bill and I do not believe

even I would read them if they were in the RECORD.

Mr. President, I do not want anyone to be under any false illusions relative to my accepting the amendment, particularly the last part about our position on public ownership. I know the distinguished Senator from Oregon and others could well argue that now that he has the form 10(k) report, what is he arguing about? You will hear it.

What we want in the outside financing amendment is the public participation and the public interest shown, not just in audits but the audits that can be obtained now that these terms are agreed to in this particular amendment; public interest will then emerge from this particular information to keep the separate subsidiary honest; in other words, to keep it operating as a separate, competitive subsidiary and not just a tool of the parent company.

I shall still be arguing that, Mr. President, but I shall go along with this compromise.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to add the Senator from Kentucky (Mr. HUDDLESTON) as a cosponsor to this amendment.

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

Mr. PACKWOOD. I ask unanimous consent to have printed in the RECORD at this place a table prepared by the National Association of Regulatory Utility Commissioners outlining the use of the telephone directory advertising revenues in State ratemaking.

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

USE OF TELEPHONE DIRECTORY ADVERTISING REVENUES IN STATE RATEMAKING

[Prepared by National Association of Regulatory Utility Commissioners]

Name of agency	Considers directory advertising revenue for ratemaking	Net revenue derived from directory advertising and applied in ratemaking		Gross revenue necessary to replace loss of directory advertising revenue for ratemaking	Increase in subscriber's monthly bill if directory advertising revenue not applied in ratemaking	Fiscal year ended
		Bell System	Other telephone companies			
Alabama PSC						
Alaska PUC	Yes			\$ 4,000,000	\$5.50	Dec. 31, 1980.
Arizona CC	Yes					
Arkansas PSC						
California PUC	Yes	\$121,600,000	\$ 41,400,000		1.25	
Colorado PUC	Yes	12,175,000		\$ 23,668,000	1.59	Do.
Connecticut PUCA						
Delaware PSC	Yes	1,900,000		3,900,000	1.38	Do.
District of Columbia PSC	Yes	2,500,000		5,900,000	.71	Do.
Florida PSC	Yes	35,300,000	13,700,000	98,000,000	1.81	Do.
Georgia PSC						
Guam PUC						
Hawaii PUC	Yes		4,887,821	8,969,700	1.86	Do.
Idaho PUC	No					
Illinois CC	Yes	57,293,589			1.08	Do.
Indiana PSC	Yes	12,127,320			1.51	Do.
Iowa SCC	Yes	11,556,761		\$ 23,231,501	2.04	Do.
Kansas SCC	Yes	9,666,000	197,000	\$ 20,135,000	2.01	June 30, 1981.
Kentucky PSC	Yes	4,389,447	1,620,922	11,840,756	.75	Dec. 31, 1980.
Louisiana PSC						
Maine PUC						
Maryland PSC	Yes	14,250,795		30,713,042	1.46	Do.
Massachusetts DPU						
Michigan PSC	Yes	37,528,927	2,431,845	74,001,430	1.73	Do.
Minnesota PUC						
Mississippi PSC						
Missouri PSC	Yes			63,938,578	2.51	Dec. 12, 1980.
Montana PSC	Yes	1,450,000		2,940,000	.92	June 30, 1980.
Nebraska PSC	Yes					
Nevada PSC	Yes			21,015,746		Dec. 31, 1980.
New Hampshire PUC						
New Jersey RPU						
New Mexico SCC	No					
New York PSC						
North Carolina UC	Yes	7,578,746	7,500,000	31,000,000	1.14	May 31, 1981.
North Dakota PSC	Yes	2,719,124	906,812	6,351,690	1.93	Dec. 31, 1980.
Ohio PUC	No					
Oklahoma CC						

USE OF TELEPHONE DIRECTORY ADVERTISING REVENUES IN STATE RATEMAKING—Continued

[Prepared by National Association of Regulatory Utility Commissioners]

Name of agency	Considers directory advertising revenue for ratemaking	Net revenue derived from directory advertising and applied in ratemaking		Gross revenue necessary to replace loss of directory advertising revenue for ratemaking	Increase in subscriber's monthly bill if directory advertising revenue not applied in ratemaking	Fiscal year ended
		Bell System	Other telephone companies			
Oregon PUC	Yes	\$20,574,000	\$4,869,000	\$38,041,000	\$2.81	Do.
Pennsylvania PUC	Yes					
Puerto Rico PSC						
Rhode Island PUC	Yes					
South Carolina PSC	Yes	3,736,762		47,473,564	.77	Do.
South Dakota PUC						
Tennessee PSC	Yes			21,057,476	1.08	Do.
Texas PUC	Yes					
Utah PSC						
Vermont PSB						
Virgin Islands PSC	No					
Virginia SCC	Yes	10,125,000		49,463,000	1.00	Aug. 31, 1981.
Washington UTC	Yes	18,855,000	3,653,000	43,638,000	2.06	Dec. 31, 1980.
West Virginia PSC						
Wisconsin PSC	Yes	11,200,000	5,200,000	37,500,000	1.56	Do.
Wyoming PSC	Yes					

¹ Anchorage Telephone Utility (municipal) represents at least 50 percent of all gross revenues.

² General telephone of California only.

³ Applies only to Mountain Bell intrastate.

⁴ Bell System only.

⁵ Figures derived from rate cases of Southwestern Bell Telephone Co. and United Telephone Co. of Kansas which supplies approximately 20 percent of independent main stations.

⁶ However, New Mexico SCC is seeking constitutional amendment to permit consideration of directory advertising revenue for rate making purposes. The net revenue derived from directory advertising by Mountain Bell is \$7,029,000 and the net revenue derived from such advertising by the 3 largest independents (Continental, General Tel. of S.W. and Navaho) is \$791,718.

Mr. PACKWOOD. Mr. President, I am ready to vote.

The PRESIDING OFFICER. The amendment amends language already amended. Does the Senator ask unanimous consent that that be the order?

Mr. PACKWOOD. I so ask unanimous consent, Mr. President.

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

The question is on agreeing to the amendment.

The amendment (UP No. 471) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

The amendment No. 578 was agreed to.

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

Mr. HOLLINGS. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 579

Mr. PACKWOOD. Mr. President, now there is the second amendment of the Senator from South Carolina.

The PRESIDING OFFICER. Amendment No. 579.

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

I will have to forgo that request until a few more Senators come to the floor, unless the distinguished Senator from Oregon wants to accept the amendment. [Laughter.]

The Senator has become very agreeable this evening.

Mr. PACKWOOD. It is not that late in the evening.

Mr. HOLLINGS. We do have the partial outside ownership amendment, and various questions have been asked by colleagues, since we debated it yesterday, as to why 10 percent is not enough.

To the point, we first tried for 30 percent, which we thought would keep the process open and competitive. We compromised down to 10 percent ownership.

It is very fundamental with the outside ownership that they have the information necessary to act as stockholders. I am pleased that we now have as part of the bill the Securities and Exchange Commission purview and requirement of a form 10-K and other forms that inform the stockholders, but there is no reason just to inform lawyers and defeat this amendment. Lawyers look on each side. I hope we can get away from the lawyer fees side of this measure.

What I wanted to bring to the fore was active public participation, so that, as I expressed yesterday, they can deal with the media and the free press. The free press plus the public ownership gaining that information from the Securities and Exchange Commission could do much more than the audits and the accounting requirements.

In fact, I have an amendment that the Senator from Oregon might accept. I call the attention of the Senator from Oregon to page 150, and I give him a copy of this amendment. Perhaps we can agree on this.

I ask the Senator to look at page 174. I am confident that the Senator is totally familiar with the thrust of the bill. It reads:

"(2) Not later than 2 years after the date of enactment of the Telecommunications Competition and Deregulation Act of 1981 or by such extended time, the Commission shall determine, after an expedited hearing in which any interested party may join—

"(A) which of the telecommunications services described in subsection (b)(1) are not subject to effective competition as defined in section 203(c)(1); and

"(B) which of such services are subject to effective competition.

After making that determination, it is necessary for these plans to be submitted.

We were talking yesterday about the plan and the FCC vis-a-vis the SEC and the power of the Commission and how it would respond. I refer to the words of

the distinguished Senator from Oregon yesterday, on page S11060:

... just to set the record straight—and I am not sure there is much point in delaying the Senate any longer on this—absolutely nothing can be transferred to the affiliate except customer equipment after a certain number of years. No assets, no transmission facilities, no nothing, unless the Federal Communications Commission approves.

A little later, at the conclusion of that statement:

But the bill provides that those transfers cannot take place without FCC approval.

When we look at what is required on pages 149 and 150, we see on line 6, "the plan shall demonstrate," and we turn to the requirement of the plan and we see:

"(iv) the assets proposed for transfer to the proposed fully separated affiliate will be fairly and properly valued; and

"(v) the initial capitalization has been fairly and properly valued.

We are talking about valuation and not the fundamental thrust that first the services and facilities proposed to be offered are subject to effective competition.

In that particular section, that is what I was referring to so strongly relative to the inadequacy, and perhaps we could add a section.

I ask the Senator from Oregon to consider that and let his staff review it, so that what is intended is understood clearly, and that is that we add a section providing that the services and facilities proposed be offered by the fully separated affiliate are subject to effective competition. That is the whole point.

The Senator from Oregon said:

No assets, no transmission facilities, no nothing, unless the Federal Communications Commission approves.

But in the general language, we are approving only the valuation and we are not approving exactly the fundamental thrust of the bill, that it is subject to effective competition.

Mr. PACKWOOD. I want to make sure what the amendment does. It does not go to the customer premises equipment that we already have taken care of.

Mr. HOLLINGS. No. It goes to the plan to be submitted, as the Senator can see, commencing on page 149, above the fully separated affiliate.

Mr. PACKWOOD. I see where it goes. It goes between lines 10 and 11 on page 150, a new item (vi).

Mr. HOLLINGS. That is right.

Mr. PACKWOOD. I may be prepared to accept it, but I do not understand what it adds to the bill that is not already there.

Mr. HOLLINGS. It adds just the fact that we were debating yesterday: The transfer of these particular facilities. The Senator from Oregon said that the Commission had to approve that transfer.

What the Senator and I are mostly concerned with, as the amendment makes absolutely clear, is that there is effective competition before they transfer, under the plan, those services and facilities. We find on pages 149 and 150 all references to the plan, but all the references lead to the Commission approving only the valuation. They do not approve whether or not there is competition.

If we start where the section commences on page 149, it reads:

The dominant-regulated carrier and any affiliate have an accounting system . . .

Then, the accounting system shall have, under (I) on line 10, "all costs related to services . . ."

On line 17, under (II):

all costs of any fully separated affiliate, including those related to services . . .

When we turn the page, it is still talking about the accounting system, under (ii). Under (iii), "the proposed fully separated affiliate complies with the requirements of section 227."

Then, under (iv):

The assets proposed for transfer to the proposed fully separated affiliate will be fairly and properly valued.

Under (v):

The initial capitalization has been fairly and properly valued.

One can see they approve the plan, but the plan only goes to accounting and valuation and not to the fundamental that concerned the Senator from South Carolina when we were talking about it. I thought I should put it at the end of the bill there. But I thought on that plan in order not to confuse it but to make it clearly understood that we wanted to make certain about the services and facilities proposed of the dominant regulated carrier.

I started to draw the amendment in that particular fashion so that there be no misunderstanding, but they tell me the better form is just to insert it there as part of the plan so there is no misunderstanding or subterfuge.

We wanted it to be approved by the Commission when the Commission determines as provided in the all-encompassing section right at the very end of the bill that the service and facility is subject to effective competition.

I think that is the real crux of submitting the plan and the very meat, as I saw, in the coconut; namely, that there

be competition there. I think we could clarify the act because that is what the Senator from Oregon was saying on yesterday that they must approve it.

No assets, no nothing could be transferred until the Commission approved it and then, when we look to find out what the Commission approves, it only approves an accounting system, it only approves valuation, but it does not approve the fundamental; namely, that there is effective competition.

So if they can, along with that same plan, have this as part and parcel of that particular review of the plan, then I do not think there will be any redundancy, but there will be clarity to it and there will be complete understanding, and it will be just exactly as represented by the Senator from Oregon in the debate on yesterday afternoon.

It could be that we can have the staff study this and go ahead and vote on this other one as a separate thing.

Mr. PACKWOOD. I want to make sure of the effect of the proposed amendment. The Senator is talking about amending the minority ownership amendment. He is talking about amending another section of the bill?

Mr. HOLLINGS. Yes.

Mr. PACKWOOD. I appreciate it.

This is the first time I have seen it. I am hesitant to adopt technical language frankly before the full import is known. I do not know. Why do we not go back.

Does the Senator have any additional remarks on the minority ownership amendment?

Mr. HOLLINGS. No. I think the minority ownership amendment has been fully discussed, unless there are some questions by the manager or other particular Senators.

I think the distinguished Senator from Nevada wanted to require that the 10 percent outside ownership not take place for 5 years. The amendment as now proposed says the 10-percent ownership will occur right away. In committee the committee has an amendment that had a 5-year delay. I do not think that is a problem of the amendment, I say to the Senator from Nevada. I want to be open and aboveboard with him.

I shall move to amend. We have not ordered the yeas and nays on it.

Mr. PACKWOOD. Now I am confused. We are back on the minority ownership amendment?

Mr. HOLLINGS. That is right.

Mr. PACKWOOD. The Senator is changing the 10-percent requirement to say that it does not have to be met until 5 years passes?

Mr. HOLLINGS. That is right, not take place until 5 years.

Mr. PACKWOOD. I still oppose the amendment. I have no objection to the Senator making that change. I am going to argue against it whether it is imminent or 5 years away. But if he has the language for that amendment I will not object to his offering it.

Mr. HOLLINGS. Mr. President, I ask that on line 16 of my amendment, subsection (3), there be inserted at the beginning of the sentence commencing:

No less than 10 percent of the shares of each class of stock originally authorized for

issuance by a fully separated affiliate shall be reserved and offered for purchase by persons other than the dominant-regulated carrier or its affiliates or any of its fully separated affiliates at the same subscription price as that paid by the dominant-regulated carrier or its affiliates.

I ask unanimous consent that the section there be amended to insert the phrase at the very beginning:

Not later than 5 years after a fully separated affiliate has been initially established pursuant to the requirements of this section and section 228,

And then commence:

no less than 10 percent of the shares of each class of stock—"

The PRESIDING OFFICER. Is the Senator modifying his amendment?

Mr. HOLLINGS. I am modifying the amendment, yes.

The PRESIDING OFFICER. Will the Senator please send the modification to the desk?

The modified amendment is as follows:

On page 147, insert the following between lines 22 and 23:

PARTIAL OUTSIDE OWNERSHIP

SEC. 227A. (a) (1) (A) Each fully separated affiliate of adominant-regulated carrier shall be organized as a corporation and shall register its securities in accordance with the requirements of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

(B) The registration requirement established in subparagraph (A) shall apply to a fully separated affiliate regardless of the number of persons owning shares of stock in such fully separated affiliate.

(2) A fully separated affiliate shall not have any authority to limit or restrict the transferability of securities issued by such fully separated affiliate.

"(3) (A) Not later than 5 years after a fully separated affiliate has been initially established pursuant to the requirements of this section and section 228,"

(3) (A) No less than 10 percent of the shares of each class of stock originally authorized for issuance by a fully separated affiliate shall be reserved and offered for purchase by persons other than the dominant-regulated carrier or its affiliates or any of its fully separated affiliates at the same subscription price as that paid by the dominant-regulated carrier or its affiliates.

(B) All stock issued after the initial issuance shall be on a basis proportionate with the initial stock issuance.

(C) In any case in which the dominant-regulated carrier or any of its affiliates owns shares of stock in the fully separated affiliate, shares of stock held by nonaffiliated persons shall carry the same rights and benefits as shares of stock owned by the dominant-regulated carrier and its affiliates.

(4) (A) Each fully separated affiliate shall submit a plan to the Commission relating to its initial and any subsequent capitalization. Each such plan shall be reviewed by the Commission within 90 days after submission for purposes of determining whether such plan meets the requirements of this section.

(B) Failure of the Commission to issue an order under this paragraph before the end of the applicable time period shall constitute approval of the plan or amended plan involved.

(5) (A) The fully separated affiliate may incur an indebtedness to the dominant-regulated carrier and its affiliates for purposes of the initial capitalization of the fully separated affiliate. The Commission shall oversee this indebtedness to ensure it does not harm the ratepayer of the dominant-regulated car-

rier and its affiliates. Any such indebtedness shall be paid back by the fully separated affiliate within 7 years after the indebtedness is incurred.

(B) In any case in which a dominant-regulated carrier or its affiliates engage in any offering of bonds, debentures, or other certificates of indebtedness, such dominant-regulated carrier shall not have any authority to make available the proceeds from such offering for use by, or for the direct or indirect benefit of, any fully separated affiliate of such dominant-regulated carrier.

(C) Except as provided in subparagraph (A), neither the dominant-regulated carrier nor its affiliates shall make any loan or otherwise lend money to any fully separated affiliate of such dominant-regulated carrier. Neither the dominant-regulated carrier nor its affiliates shall buy or guarantee any bonds, debentures, or other certificates of indebtedness issued by any fully separated affiliate of such dominant-regulated carrier.

(6) The time limits established by this subsection may be extended by the Commission for a period not to exceed 2 years upon a finding that such an extension would be in furtherance of the purposes of this Act.

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

Mr. HOLLINGS. I am delighted to yield.

Mr. CANNON. As the Senator knows I voted in support of his amendment on outside ownership when he offered it in committee and as I recall it was different than the provision now in the bill.

I take it that this modification he is sending to the desk now is to return to the concept that he proposed in the committee that there would be a 5-year phase-in of the outside ownership requirement.

Is that correct?

Mr. HOLLINGS. That is exactly correct; yes.

Mr. CANNON. If we are going to impose such a requirement we should give them sufficient time to get organized and that original 5-year proposal seems to me is more reasonable.

I would vote for him as I did in committee if he makes that change, but otherwise I do not think I can support it.

Mr. HOLLINGS. I appreciate the support of the Senator from Nevada, bringing it frankly to my attention because there was no intent to leave that particular part of the amendment out.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HOLLINGS. Is the amendment now so modified?

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLINGS. Very good.

Then the Senator from South Carolina will be prepared to vote.

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

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

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I wish to make a few comments on this amendment and they are directed to the amendment as modified and they would have been directed to the amendment without modification.

First, as the Senator from South Carolina said, we have adopted his amend-

ment requiring the fully-separated affiliates to file all of the information required by the Securities Act of 1933 and the Securities and Exchange Act of 1934. That was one of the major arguments he made yesterday, that information filed with the FCC even if it is identical to the information filed with the SEC is reviewed through different eyes and with a different view by the Securities and Exchange Commission and consequently that has been put into the bill.

Second, I wish to read two statements from two of the principal brokerage houses in this country. One is from E. F. Hutton, a letter dated September 22, 1981, from Mr. Robert Fomon:

One amendment which may again be proposed when the bill reaches the floor is the requirement that a fully separated affiliate of AT&T have some minority ownership. Congress should avoid imposing such irreversible requirements with potentially mischievous consequences. As I understand the bill, the issues of cross-subsidies and public disclosure of the separated affiliates' activities—which minority ownership purports to address—are adequately dealt with by the present bill.

Second is a letter from Salomon Bros. from John Gutfreund:

It is my understanding that when S. 898 comes upon the Senate floor a number of amendments are likely to be proposed. I am particularly concerned about an amendment which would not allow AT&T full ownership of a fully separated affiliate and would limit its participation in the debt financing of the affiliate. An amendment to that effect, proposed by Senator Ernest Hollings, was defeated in Committee and is expected, I believe, to be offered again on the floor.

Such an amendment would restrict the flexibility of an affiliate to finance its operations, create potential conflicts of interest within management, and establish a poor precedent by Congress for the structuring of diversified industries in highly competitive fields. Further, such a provision would set a fixed, but highly dubious course which would not contribute to its ostensible purpose—the prevention of cross-subsidies between parent and affiliate. That concern is adequately addressed elsewhere in the bill.

Mr. President, let me make a few other comments:

First, bear in mind we have total public disclosure in this bill. We require filing with the Federal Communications Commission. Now, we require filing with the Securities and Exchange Commission. Every single transaction between the affiliate and the parent must be by contract. The contracts are public and they are subject to the scrutiny not only of the SEC and FCC but every one of the competitors of the affiliate. Every one of them. And, there is infinitely better monitoring when a competitor is watching than when the Government is watching. Therefore, it does not really matter if you have 10-percent minority ownership or 30-percent minority ownership. It is not going to do any more for disclosure as far as diluting A.T. & T. control is concerned. They are still going to have either 70 percent or in this case 90 percent of the control.

Second, with private shareholders, think to yourself for a moment—the argument is cross-subsidization. The parent is going to try to subsidize the affiliate.

If you are one of these minority stockholders, one of these 10 percent in the affiliate, what is going to be your interest? Your interest is going to be in getting the parent to subsidize as much of the affiliate as possible so that its profits are greater and your dividends are greater. So that by requiring these minority stockholders, if we require them, we are creating an incentive for them to encourage A.T. & T. to subsidize the affiliate.

Third, if by chance the fully separated affiliate that we have required be established in this bill does not work for whatever reason, and I am the first to admit on occasion when we draft legislation it does not always work as we intended, it is much easier to undo it if there are no private minority stockholders.

Once we have minority ownership, once we have people who have invested their own private money in this corporation, then we have the problem of minority stockholders and buying them out and the question would arise as to what their rights are if we try to restructure the affiliate years down the road.

It is simply much easier to restructure it with only A.T. & T. as the owner of all the affiliate stock.

Once more I will say, in conclusion, Mr. President, no assets short of the customer premises equipment, which has been covered, no assets can be transferred to the affiliate without approval of the FCC.

That, together with the public disclosure at the FCC, at the SEC, and with the scrutiny of the private competitors of the affiliate is all that is needed to guarantee that there will be no nefarious self-dealing between the affiliate and the parent, and is all the guarantee that is needed to insure that the rigors and the competition of the marketplace will work.

So I hope, Mr. President, we will reject this amendment and get on with the rest of the bill.

Mr. HOLLINGS addressed the Chair. The PRESIDING OFFICER (Mr. CHAFEE). The Senator from South Carolina.

Mr. HOLLINGS. The hope in the marketplace authority is very interesting. I am much tempted by the majority leader's observation that that crowd is on drugs. I remember him saying that when they rebuffed Reaganomics here in August and when we returned after the Labor Day break.

But the fact of the matter is they are not on drugs. They are making money. Maybe some day we will understand that that is the purpose of the New York Stock Exchange. It is not for patriotism that it is organized. It is organized to make money.

Salomon Bros., if they would only answer, would be glad to come and tell you exactly how much they made in money from A.T. & T.

On Wall Street, their A.T. & T.'s "Banker for Bonds"—that is the way all the different brokers describe them—Salomon Bros. managed A.T. & T.'s two most recent debt offerings, and it played a role in selling A.T. & T. stock, as almost

every broker on Wall Street has a role in selling that stock. So we asked Salomon Bros. to let us know the amount of their bonds and their profits to see whether they were making an impartial statement.

We have not yet gotten an answer. I do not hope that we will hold the legislation up until we do get an answer. When you have got the biggest and the best and the most successful money-making operation in the world you do not interfere with it, and that is why they want to continue. There are 300 lobbyists in these halls right now from A.T. & T. telling us to get on with the bill so they can all go back home.

Let us look at an impractical group when we talk about stockbrokers and requirements. I am sure the members of the General Accounting Office filed an impartial report: They did not act at my request. They filed this report on September 24, and this is just October 6, and they said:

A requirement of outside equity participation is not without precedent in the Commission's regulatory proceedings. For example, in 1975, in connection with what was to become the Satellite Business Systems venture launched by International Business Machines Corp., the Communications Satellite Corp., and Aetna Casualty and Surety Co., FCC required a minority financial participation by a third party. The purpose of this requirement was to act on the competitive incentives of the major participants in the venture. Specifically, the Commission was concerned that International Business Machines and the Communications Satellite Corp., because of their significant business ties with AT&T, might have reasons to limit or restrain their joint venture's competition with AT&T and other carriers in the specialized service market.

Now that is exactly what we were concerned about here, that they subsidize the affiliate. What do you think they would do in Southern Bell? Exactly what the parent company, A.T. & T., wants. They own all the stock. Necessarily, if they own all the stock and there are no outside holdings, ownership or interest, they are going to do exactly what the parent wants. Similarly, here in this so-called fully separated affiliate, which is not fully separated.

Continuing to quote from the GAO report:

It was felt that participation of another partner, not having such business ties, would alleviate concerns regarding the new venture's competitive posture and zeal and influence it toward pursuing FCC's policy objective that all domestic satellite systems be competitive to the greatest extent possible with AT&T and other carriers in the specialized service marketplace.

So, the idea of outside ownership is to ease the pressure of the parent to subsidize further. The parent could well withhold the rigors of competition. There would not then be a fully separated entity, and thereby unfair competitive practices would ensue.

I quote further from the GAO report: Notwithstanding its recognition of the potential benefits of independent equity participation, the Commission determined not to impose such a requirement as one of the initial, basic Computer II conditions. The Commission observed in the final decision

that the corporate and regulatory implications of outside financing had not been addressed in any significant detail during the Computer II proceeding and asserted that there was a need for further exploration of the underlying issues. The Commission expressed the view that it would be appropriate to wait until carriers subject to the separate subsidiary requirement (only AT&T as a result of reconsideration) had submitted their separate subsidiary capitalization plans for Commission approval before deciding what further action, if any, was warranted in this area.

Because of the potential benefits to be gained through a requirement of outside equity participation, we believe that this matter should receive the fullest and most careful consideration by FCC in connection with its intended review of the proposed structuring and capitalization of separate subsidiaries.

So there is the impartial General Accounting Office, the arm of the national Congress, suggesting just exactly what this amendment suggests, and it is certainly suggesting it so that all the horror stories coming from a minority ownership as characterized by my colleagues from Oregon can be laid to rest.

The benefits of an independent equity participation requirement derive primarily, in our view, from the salutary impact which it could have on the incentives of a stand-alone separate subsidiary and from its contribution to facilitating regulatory oversight tasks of the Commission. The added visibility.

Therein I am talking about that stockholder and filing—once you get them working together you have exactly what we are talking about, visibility, and then they talk about the visibility given by the forms to be filed, working with those forms, wherein the public would bring these kinds of noncompetitive practices that may come about to the public's attention as well as to management's attention, and we could see whether or not there was fair competitive performance of the fully separated entities.

So, Mr. President, let us not worry. We have checked with all of them. They will tell you off the record, just like they do right now about the interest rates. They tried to tell the administration as best as they knew how, but they would not listen. So now they are being told with their pocketbooks, and that is why the bond market has gone kaput, and that is why the stock exchange prices have gone down 150 points, because they are telling them as loudly as they possibly can with the pocketbook what they think.

We know exactly what they think, and we see it reported right here in the General Accounting Office report of the Federal Communications Commission and commending the two instances where it has already been employed.

So this is not a radical proposal of some dissident Senator trying to cause trouble but rather trying to postulate, if you please, the thrust of the bill that a competitive market develop and a fully separated affiliate operate so as a competitor to A.T. & T. not as its pawn.

The PRESIDING OFFICER. The yeas and nays having been ordered, the question is on agreeing to the amendment of the Senator from South Carolina, as amended. The clerk will call the roll.

The legislative clerk called the roll. Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. INOUE), and the Senator from New Jersey (Mr. BRADLEY), are necessarily absent.

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

The result was announced—yeas 26, nays 68, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—26

Baucus	Hayakawa	Nunn
Cannon	Hollings	Pell
Cranston	Jackson	Proxmire
Dodd	Kassebaum	Riegle
Durenberger	Kennedy	Sasser
Eagleton	Leahy	Specter
Ford	Levin	Stennis
Gorton	Matsumaga	Tsongas
Hart	Moynihan	

NAYS—68

Abdnor	East	Mitchell
Andrews	Exon	Murkowski
Armstrong	Garn	Nickles
Baker	Glenn	Packwood
Biden	Goldwater	Percy
Boren	Grassley	Pressler
Boschwitz	Hatch	Pryor
Bumpers	Hatfield	Quayle
Burdick	Hawkins	Randolph
Byrd	Heftin	Roth
Byrd, Robert C.	Helms	Rudman
Chafee	Huddleston	Sarbanes
Chiles	Humphrey	Schmitt
Cochran	Jepson	Simpson
Cohen	Johnston	Stafford
D'Amato	Kasten	Stevens
Danforth	Long	Symms
DeConcini	Lugar	Thurmond
Denton	Mattingly	Tower
Dixon	McClure	Warner
Dole	Melcher	Weicker
Domenici	Metzenbaum	Williams
		Zorinsky

NOT VOTING—6

Bentsen	Inouye	Mathias
Bradley	Laxalt	Wallop

So Mr. HOLLINGS' amendment (No. 579), as modified, was rejected.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. STEVENS. Mr. President, there is a meeting going on. It is the leadership's hope that we can put this matter aside now and take it up again tomorrow morning. There will be other matters before the Senate this evening yet, but I ask unanimous consent that the Senate stand in recess subject to the call of the Chair and announce that there will be further proceedings of the Senate tonight.

There being no objection, the Senate, at 5:19 p.m., recessed awaiting the call of the Chair. At 6:15 p.m., the Senate reassembled when called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there will be no more rollcall votes this evening. I ask unanimous consent that there now

be a brief period for the transaction of routine morning business to extend not past the hour of 6:30 p.m., during which Senators may speak.

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

**EXPRESSION OF DEEP REGRET
OVER ASSASSINATION OF PRESIDENT
ANWAR EL-SADAT**

Mr. BAKER. Mr. President, I send to the desk a concurrent resolution for myself and for the distinguished minority leader (Mr. ROBERT C. BYRD), on behalf of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. PERCY), the Senator from Rhode Island (Mr. PELL), the Senator from Texas (Mr. TOWER), and Mr. BOSCHWITZ, Mr. BIDEN, Mr. MATSUNAGA, Mr. KASTEN, Mr. SASSER, Mr. BENTSEN, Mr. SARBANES, Mr. FORD, and Mr. LEVIN and ask for its immediate consideration. I ask that the clerk read the entire resolution.

The PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

S. CON. RES. 39

A concurrent resolution (S. Con. Res. 39) to express the deep regret of the Congress of the United States over the assassination of President Anwar el-Sadat of the Arab Republic of Egypt.

Whereas, the Congress of the United States has learned with profound sorrow and deep regret of the tragic death of President Anwar el-Sadat of the Arab Republic of Egypt; and

Whereas, President Sadat has been a true friend of the United States and a true partner in the search for peace in the Middle East; and

Whereas, President Sadat has earned the affection and respect of the people of the United States for his historic leadership and statesmanship in the cause of international peace; and

Whereas, the Congress has confidence that Egypt's leaders and institutions will carry on the responsibilities of government with full competence and dedication, including moving forward in the search for an enduring peace settlement in the Middle East and in promoting the economic well being of all Egyptians; and

Whereas, the leaders of Egypt have today reaffirmed their intent to follow the policies of President Sadat: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That:

(1) the United States expresses its deep sympathies to the family of President Sadat and the people of Egypt for their tragic loss; and

(2) the United States reaffirms its friendship with and full support for the Government and people of Egypt.

Mr. BAKER. Mr. President, I am sure I join the Nation and the world in mourning the death of one of the great leaders of our time, President Anwar Sadat of Egypt.

There have been few men, if any, in this century, whose courage, whose vision, whose resolute sense of purpose has matched that of President Sadat.

Surely no man has ever risked more than he in the cause of peace. Today we must say that no man has ever sacrificed more.

In the days ahead, I trust that Vice President Mubarak and those who follow in his footsteps in the leadership of the

great nation of Egypt will take up his fallen standard and show the world that Egypt's commitment to peace, its belief in democracy, its national courage did not die with this extraordinary man.

I recall that when President Sadat came to Washington to negotiate the Camp David accords, I quoted an ancient philosopher who said, "It is in the interest of every commonwealth that there be some man in its leadership against whom fortune has no power." President Sadat was such a man.

No threat, no effort at intimidation from whatever quarter, could veer him from the course he believed right for his country and for the world. That President Sadat should become the latest victim of political savagery is an appalling testament to the strife and alarm that engulfs so many political lives.

If the enemies of peace believe that the primitive power of a bullet could accomplish what no political or military power on Earth could do, they are tragically mistaken.

Mr. President, President Sadat's dream of peace shall never die.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the world is stunned and saddened by the tragic assassination of Egyptian President Anwar El-Sadat in Cairo. This event is a tragedy of enormous proportions for the entire world.

If there has been one bright spot in the violence-plagued Middle East in recent years, it has been the peace initiative launched by President Sadat 4 years ago. As the first Arab leader to recognize the right of Israel to exist, he has toiled these 4 years on behalf of finding a comprehensive solution to the Arab-Israeli dispute which has produced so much human suffering for more than three decades.

Risking virtual isolation within the Arab world, and personal risk to himself, President Sadat traded the barrel of the gun for the olive branch. While much remains to be done in furthering this peace process, President Sadat accomplished much since his historic visit to Israel on November 19, 1977. It was a courageous and statesmanlike act on the part of this extraordinary leader who remained extremely popular with the American people for his leadership and wisdom.

On September 17, 1978, the "Framework for Peace in the Middle East Agreed at Camp David" was signed by President Sadat, Prime Minister Begin, and President Jimmy Carter. On March 26, 1979, Egypt and Israel formally signed a treaty of peace.

Yet, it was that one act—traveling to Israel in November 1977—which did so much to dispel the mistrust and mutual fears that had characterized modern-day Israel's relationship with her Arab neighbors. We owe President Sadat a deep debt of gratitude for seeking a peaceful solution to the Arab-Israeli conflict.

How tragic that such a price should be paid for being a peacemaker. How tragic for the people of Egypt, from whom President Sadat had lifted the burden of

senseless sacrifice in war. How tragic for the peoples of the strife-torn Middle East that the gun has once again replaced the olive branch.

Mr. President, our prayers go out to the family of this remarkable leader. Our hearts are heavy with sorrow. Our prayers and unequivocal support go out to Vice President Hosni Mubarak, the man President Sadat had selected as his successor.

If there is one legacy President Sadat left us, it is the legacy of peace. I am oft reminded of his remarks in ceremonies at the White House celebrating the historic signing of the Egypt-Israeli Peace Treaty. President Sadat said:

Let there be no more wars or bloodshed between Arabs and Israelis.

Let there be no more suffering or denial of rights.

Let there be no more despair or loss of faith.

Let no mother lament the loss of her child.

Let no young man waste his life on a conflict from which no one benefits.

Let us work together until the day comes when they beat their swords into plowshares and their spears into pruning hooks.

And God does call to the abode of peace, he does guide whom he pleases to his way.

This is an eloquent testimony to President Sadat's vision and commitment to humanity. This is the legacy he has left us. Therefore, let us heed his words and renew our efforts at peace-making.

In conclusion, Mr. President, I am deeply saddened by the events of today. America not only lost a good and close friend. The world has lost a rare and outstanding leader. Whoever is responsible for this deed has destroyed a man, but they have not destroyed the spirit. President Sadat will go down in history as a giant among men—a leader who dared to take risks for peace and an example to all in the world who cherish the olive branch over the gun.

Mr. PERCY. Mr. President, I thank the distinguished leadership for joining Senator PELL, Senator KENNEDY, and me in this resolution.

I ask unanimous consent, at their request, that the names of Senator BOSCHWITZ and Senator BIDEN be added as cosponsors of the resolution.

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

Mr. PERCY. Mr. President, I simply should like to indicate that in the resolution, we express our deep sympathy to the family of President Sadat and to the people of Egypt for their tragic loss. Our thoughts particularly go to a great humanitarian who has stood alongside him as a leader in her own right, Mrs. Sadat.

It has been our great pleasure to have her here, to host her at a luncheon at the Foreign Relations Committee, because of her own magnificent achievements. Her husband was tremendously proud of her. We are tremendously proud of her. The world is proud of the role she has played with reference to the disabled, the mentally and physically handicapped, and the role of women in the world today, where she has been a true leader.

Our thoughts also go to their daughter, who was stricken with a temporary illness while here. I had the privilege of visiting her in the hospital. She is the

personification of her father and mother. Our thoughts and sympathy and prayers go to her and to the entire family.

When I first met President Sadat 6 years ago, I came back to the Senate and reported that, in my judgment, he was the noblest man I had met; he was the greatest man of peace I had met in the Middle East. There was some criticism of those comments, because he was not at that time perceived to be a man of peace.

Since then, everyone has joined—that is, the United States, Israel, Egypt, and certainly many people throughout the world have joined—in recognizing not only the creativity, the imagination, and the boldness of President Sadat but also his total dedication. He gave his life for peace in the Middle East—and he did literally give his life for that purpose.

When tragedy strikes in all our families, I know how deeply it affects all of us. I have experienced it. I know that Senator KENNEDY feels deeply about what has transpired. We are honored and pleased to have him join us in this resolution.

President Sadat was a man of uncommon vision and courage who reached out to Israel to end the state of war and to start the process toward Mideast peace. He taught the world the lesson that long-held animosities and grievances can be overcome by a magnanimous gesture of conciliation and peace.

Fortunately, President Sadat surrounded himself with a group of dedicated Egyptian leaders who share the same, forward-looking views on foreign policy. This policy had the overwhelming support of the Egyptian people. This leadership should have continuing U.S. support as it carries forward President Sadat's efforts for a broader peace.

Mr. President, I hope that at this time Senator KENNEDY will be recognized, as a cosponsor of this resolution.

Mr. KENNEDY. I thank the chairman.

Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. MATSUNAGA) be added as a cosponsor of the resolution.

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

Mr. KENNEDY. Mr. President, how can we accept that this has happened for the third time in a year—and that this time, the worst has happened and the world has broken our hearts again?

The President of Egypt, my friend Anwar Sadat, has died. But he was more than the President of a great country, more than a friend of Kings, Presidents, Prime Ministers, Senators, and the powerful of the world. He was the friend of common people everywhere who yearn for peace. His only real enemy, the enemy that struck him down, was the common scourge of human history—the forces of killing and war and hatred.

One day, as he said, he bounced his grandson on his knees and looked into his eyes. Then and there, Anwar Sadat decided that the next generation of Egyptian grandchildren would not be another generation sent to battle. And so he dared to step from the shadows of a terrible conflict into the light of peace. He watched a child's smiling face—and

he made that light to shine upon the Middle East and across the Earth. Where there was ancient enmity, he sought healing. Where there was endless stalemate, he brought progress. Where there was recurring death, he opened the way for a hundred million human beings to live out their lives in purpose and peace.

So many of us here came to know him. He was warm, spontaneous, graceful, and restless in his quest. Americans came to admire him as we have seldom admired any leader of another land. And perhaps the most remarkable testament to him was that this Egyptian President was loved by the people of Israel.

Anwar Sadat was a realist who knew the risks he ran. He understood that the very violence he tried to tame might take him at any time. But he also believed that it was far better to live greatly, to dare greatly than to follow the safe and easy path.

My heart goes out to his wife Gehan Sadat and to his family. I know what they are feeling. I share their sorrow. I pray that they will find consolation and sustenance in his memory. And we all pray that the peace he began will last and flourish. The greatest tribute that we can pay to him now is to finish his work.

For his family and his country, there is the certainty that his name shall endure through the ages and his example shall light the way for a weary and war-laden world. Few individuals ever truly achieve greatness. Fewer still achieve it by making peace instead of war, for too often history has valued conquest instead of those who calm the Earth. But as John Milton reminds us:

Peace has her victories no less renowned than war.

Anwar Sadat's life was among the rare and renowned victories for peace in all the recorded history of the human race.

Let us now repeat the prayer he said on the day the Camp David accords were signed:

Let us join in prayer to God Almighty to guide our path. Let us make . . . a new chapter in the history of our nations.

In his words, we pray for our world. Each in our own way, we pray for him. Sixty-two years ago, he was born on Christmas Day, the birthday of the Prince of Peace. Now he leaves us as a prince of peace for our generation. Anwar Sadat gave us peace. May he rest in peace forever.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

ANWAR SADAT: PEACEMAKER AND PEACE PRACTITIONER

Mr. MATSUNAGA. Mr. President, the assassination of President Anwar Sadat of Egypt has deprived the world of a great peacemaker. President Sadat clearly was a leader who rejected the notion that war is inevitable and believed that the incidence of violence and conflict in the Middle East and in the world can be reduced through peaceful processes. As one who shares that belief,

I join my colleagues in expressing the sorrow of the American people at his violent and untimely death.

President Sadat demonstrated his commitment to the peaceful resolution of conflict during the historic Camp David talks. Using the Camp David accords as a basis, he and Prime Minister Begin of Israel continued their search for a peaceful settlement of problems in the Middle East.

Prof. Roger Fisher, of Harvard Law School, one of a number of experts who helped U.S. officials prepare for the Camp David talks, later observed to members of the U.S. Commission on Proposals for the National Academy of Peace and Conflict Resolution that "Camp David is one of many stories that illustrate the power and importance of methods of coping with differences." Professor Fisher further noted that while within the United States we have developed numerous methods of coping with differences on the family, local and national levels, "we need to apply that knowledge to the international situation."

As a peacemaker and winner of the Nobel Peace Prize, President Sadat was surely well aware of the importance of finding new methods to cope with international conflict and he had the courage to pursue that goal. Hopefully, as a result of his death, we will rededicate ourselves to the search for world peace. There could be no better memorial to that great peacemaker.

The history of mankind, it is said, records the course of human events, influenced and shaped by prominent personalities. President Sadat will surely be recorded as one who influenced and shaped the course of history in this century.

As one of a number of Senators who had the great privilege of breaking bread and discussing the grave situation in the Middle East on an informal basis with President Sadat on several occasions, I am deeply saddened, as though I have lost a close personal friend. To Mrs. Sadat and to her family I extend my heartfelt condolences and to the people of Egypt my prayer for a peaceful and orderly transition.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the report of President Sadat's death means this will go down as yet another senseless act of violence that seriously threatens the stability of the entire Middle East. I am shocked and deeply saddened by this development.

I had the opportunity to visit with Sadat on several occasions—in Washington and in Cairo. I questioned him at length about the situation over there and I admired not only his answers, but his continuing determination to bring peace to the Middle East.

His death will be a loss that will be felt far beyond the Egyptian borders. It will be a major setback to the potential for peace and security in the Middle East, and that is a tragedy—for not only Egypt but our Nation as well.

Mr. FORD. Mr. President, I ask unanimous consent that I may be added as a cosponsor to the resolution.

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

Mr. THURMOND. Mr. President, it is with a deep sense of brief and personal loss that I rise today to express my regret at the assassination of President Anwar el-Sadat of Egypt.

I consider it one of the highlights of my career in the U.S. Senate to have known this great statesman, to have heard him speak of his dream of peace in the Middle East, and to have witnessed the great risks which he took personally and politically to make his dream a reality. His open, modest appearance belied the greatness of this man. Yet, it endeared him to millions of people in the United States and abroad. He was, indeed, a man of courage, a man of vision, and a man of determination.

Against tremendous odds, President Sadat took the initial steps toward what he hoped would be a lasting and just peace in the Middle East. He proved that one man, by dedicating himself to understanding and fairness, could make a lasting impact on the world. Unfortunately, President Sadat has been taken from us at a time when his leadership is most needed in this continuing struggle for peace.

Now, we must all redouble our efforts for peace in the Middle East as a testament to the man who captured the hopes and imagination of all of us who desire world peace. Anwar Sadat has shown the way, illumined by his acts of personal courage. It is for us to follow.

Mr. President, I feel a great sense of personal loss with the passing of President Sadat. Through discussions and correspondence with him, I have gained an appreciation for his compassion and sense of justice. The world cannot suffer the loss of such a leader without pausing to reflect upon his accomplishments and expressing gratitude for his faithful service to his fellow man.

To his family, I extend my deepest sympathy; to the Egyptian people, I join with my fellow Americans in pledging my continued support for the democratic ideals reflected in the leadership of President Anwar el-Sadat.

Mr. NUNN. Mr. President, the death of President Sadat is a tragedy for the world. No man in recent history has displayed more courage and statesmanship than Anwar Sadat. He has played the major role in laying a foundation for peace and good will in the Middle East.

His leadership inspired wisdom. His example inspired courage. His life was a ray of hope for a troubled world. While others were cursing the darkness, Anwar Sadat was lighting a candle for his people and the people of the world.

My heart goes out to his family and the people of Egypt. I thank God for President Sadat's life and for his example.

Mr. RIEGLE. Mr. President, today's bloody attack upon and murder of Egyptian President Anwar Sadat has come as a brutal shock and a sad reminder to those of us who are committed

to the pursuit of stability in the Middle East. President Sadat exemplified the most progressive and idealistic currents in Arabic culture and politics. He was staunchly religious, but tolerant of other religious faiths. He recognized the important distinction between religious devotion and the exercise of politics; and he refused to permit Islamic fundamentalism to undermine the operations of his government or progress toward a lasting peace in the region.

Even more dramatic than Sadat's domestic policies have been his contributions to peace in the Middle East. He turned his back on two decades of hostilities between the Arab world and Israel and took the first bold steps toward a lasting peace. He did so at great risk; and indeed, his untimely death may be the final price for his bravery. In seeking a lasting peace with Israel and the ultimate resolution of the Palestinian question, President Sadat displayed those rare qualities of accommodation, reason, selflessness, historical vision, goodness of heart, courage and commonsense which are, collectively, the hallmark of true statesmen. The description is as apt as it is self-evident: Anwar Sadat was a true statesman.

The world will sorely miss Anwar Sadat. And I rise today on the floor of this Senate to add my voice to those of my constituents who pray that we may continue down the path of peace in the Middle East—and in the world as a whole—the path that President Sadat has helped us all see more clearly.

Mr. PELL. Mr. President, the death of President Sadat comes as a deep shock to me and to all Americans. President Sadat was unquestionably one of the great men of our era. I was privileged to meet him several times. He was a man devoted to the well-being of the Egyptian people, to deep and friendly ties between the Egyptian and American peoples, and to peace in the troubled Middle East.

He was bold and imaginative—we must all recall the drama of his visit to Israel, and the excitement of the Camp David accords. Inevitably, such boldness breeds opposition. But he persevered courageously, knowing the risks, until he was felled by this heinous and cowardly attack.

I know that I speak for my colleagues in this Chamber, for the people of Rhode Island, and for peace-loving people everywhere as I grievously lament his passing. I extend heartfelt condolences to Mrs. Sadat and their family, to Vice President Mubarak and his colleagues in the Egyptian Government, and to the Egyptian people whom Anwar Sadat served so ably. We all hope that this passing will spur the process of regional peace and stability. Such a legacy would be fitting.

Few persons are given the opportunity to influence history in a positive direction; fewer still take that opportunity. Even fewer men have ever enjoyed respect and regard outside their own national borders. Anwar Sadat was such an exceptional man of destiny. I and other Americans have lost a friend; Egypt has lost a noble son.

Mr. LEVIN. Mr. President, the world will remember Anwar Sadat as a man who made extraordinary contributions to his people and to peace in the world under excruciatingly difficult circumstances. His epical visit to Jerusalem to make peace was one of the truly notable events of the century.

President Sadat's death is a major tragedy for peace, for his family, and for all of us who knew him as a friend and admired him as a most charismatic and courageous leader on the world scene.

We must all hope and pray that his successors will continue the policies he so bravely pursued.

Mr. President, I ask unanimous consent that I be added as a cosponsor to the resolution.

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

Mr. DOLE. Mr. President, I join millions of peace-loving Americans today in mourning the death of Egyptian President Anwar Sadat.

And, like my fellow countrymen, I deplore the savage means by which his assailants perpetrated this attack. For, above all, Anwar Sadat's message was not the bullet, but the olive branch.

In 1977, President Sadat journeyed to Israel to extend the hand of peace to Egypt's longstanding foe. His extraordinary vision has transformed the future of relations between Israel and its Arab neighbors, and my fervent hope is that the reconciliation process will continue now that President Sadat is gone.

It is beyond the means of any of us to predict what might happen in the Middle East, and it remains to be seen what effect President Sadat's death will have on U.S. security interests. But Anwar Sadat's legacy of courage is one that I hope is emulated by his successors, and we pray for the future of democracy in Egypt.

Mr. WILLIAMS. Mr. President, I am shocked at the news of the assassination of President Anwar Sadat. President Sadat was a dynamic force for peace in the Middle East and his courageous leadership resurrected the close historic bonds between the people of the United States and the Egyptian people. When President Sadat took the heroic steps to normalize relations with Israel and to enter into the Camp David process, he was keenly aware of the great personal risks involved. Nevertheless, he was steadfast in his conviction that no risk was as important as the pursuit of peace. I am deeply saddened by the tragedy of this loss. But I am also inspired, as are decent people everywhere are by his heroic example to all of us.

Mr. President, I send my deepest and most heartfelt sympathies to Mrs. Sadat and to the people of Egypt who have suffered this incalculable loss.

Mr. HURLIN. Mr. President, I am deeply saddened by the death of Egyptian President Anwar Sadat. I join with my colleagues in the Senate and with all Americans in mourning the tragic death of this dynamic, remarkable, and charismatic man who has been a good and reliable friend of the United States.

I deplore the assassination of this

truly great leader and condemn those people who took part in this killing and the type of violence and terrorism these murderers employ.

The Egyptian people have lost a capable and visionary leader. The American people have lost a beloved and respected friend. The world has lost one of the most courageous and dynamic political leaders of this century.

Mr. President, Anwar Sadat earned the respect and admiration of all American citizens and of all peace-loving people of the world when he took his historic initiatives to bring about a just and lasting peace in the Middle East. It took an enormous amount of backbone and determination for President Sadat to make overtures to Israeli leaders and to participate in the Camp David peace process.

Ironically, it was President Sadat's earnest and genuine desire to bring peace to his nation and to the world that led to his brutal assassination.

Mr. President, I am concerned over the future stability of the Government of Egypt and I have a great deal of anxiety over our future continued good relations with that nation. The United States has based a large part of its Middle East policies on the long-term stability of Sadat's Egypt. The death of President Sadat could have a devastating effect on the stability of the entire region.

Mr. President, I cannot condemn adequately enough the perpetrators of this dastardly and cowardly act. The terrorists and murderers who carried out this political assassination have no proper place in a civilized society.

I know that the prayers and love of millions of Americans go out to Mrs. Sadat and to the rest of President Sadat's family. Mrs. Sadat has been a strong and dynamic leader in her own right. I wish to extend my own prayers to her and to reassure her that her husband made a significant positive impact on the world.

Mr. RANDOLPH. Mr. President, the Roman philosopher Seneca said:

Men do not care how nobly they live, but only how long, although it is within the reach of every man to live nobly, but within no man's power to live long.

Probably no man realized the truth in this statement as did the late President of Egypt, Anwar Sadat. He lived nobly. I do not dwell on the barbarism involved in the assassination of this magnificent and beautiful champion of peace. The horrifying nature of this act of killing is clear.

Now, I focus on the peace-making endeavors of President Sadat. His leadership in achieving harmony among nations stood out like a tenfold beacon in the night lighting the way to peace. His memory must now be our inspiration to accelerate the process of achieving a world free of conflict. It is not the time to build monuments of stone or name plazas of grand design. Rather, let the leaders of the world strive more earnestly to secure the golden hope of universal peace outlined so eloquently by

Anwar Sadat in his speech to the Israeli Knesset on November 4, 1977:

Introduce to the entire world the image of the new man in this era so that he might set an example of the man of our age, the man of peace everywhere. Ring the bells for your sons. Tell them that we are upon a new beginning, a new life; a life of love, prosperity, freedom and peace.

Amidst the ruins of what man has built, among the remains of the victims of mankind, there emerges neither victor nor vanquished. The vanquished remains always a man—God's most sublime creation.

And he added:

When the bells of peace ring, there will be no hands to beat the drums of war.

Mr. President, we mourn the death of this gallant crusader for peace.

Mr. JEPSEN. Mr. President, Anwar Sadat was one of the most able and courageous leaders of the 20th century. He is the Arab leader who made peace with Israel. I join those who fear that his passing may be the end of an era. It is uncertain whether the new Egyptian leadership will pursue continued peace with Israel.

Yet it is also very possible that Sadat, who knew for years that killers were on his trail, had made plans for his own succession. If men of peace continue to reign in Egypt, it would be a fitting last victory for this remarkable man.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The concurrent resolution (S. Con. Res. 39), with its preamble was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to and instructed to transmit an enrolled copy of the resolution just adopted to the Secretary of State with a request that it be forwarded to the family of President Sadat.

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

AUTHORITY FOR COMMITTEE TO FILE REPORT

Mr. BAKER. Mr. President, I believe this request has been cleared. I ask unanimous consent that the Banking, Housing, and Urban Affairs Committee be permitted to file a report between the hours of 9 a.m. and 3 p.m. on Friday, October 9, to accompany S. 708.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are three items on the Executive Calendar that I am prepared to deal with. I would inquire of the minority leader if he is in a position to address the nominations beginning on page 1 with Lee M. Thomas, of South Carolina, to be an Associate Director of the Federal Emergency Management Agency, through Gary L. Jones, of Virginia and Edward A. Curran, of Maryland, for the nominations as will appear in the RECORD.

Mr. ROBERT C. BYRD. Mr. President, those nominees have been cleared for action on this side.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the three nominations just identified.

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

FEDERAL EMERGENCY MANAGEMENT AGENCY

The legislative clerk read the nomination of Lee M. Thomas, of South Carolina, to be an Associate Director.

Mr. MURKOWSKI. Mr. President, during hearings on the nomination of Lee M. Thomas to be Associate Director for State and local programs and support of the Federal Emergency Management Agency, Mr. Thomas was asked in writing whether the Disaster Relief Act of 1974 could be used when confronted with social and economic problems as well as in response to natural or physical catastrophes. I am greatly concerned by his answer and do not believe it should go uncontested.

Mr. Thomas answers:

By the terms of the act and its legislative history, its application does not appear to be limited to natural or physical occurrences and I would urge that its broad application to respond in crisis conditions to relieve hardship and suffering and protect public health and safety be retained.

Mr. RANDOLPH. Will the Senator from Alaska yield at this point?

Mr. MURKOWSKI. I am happy to yield to Senator RANDOLPH, who was serving as chairman of the Public Works Committee when the Disaster Relief Act was originally written in that committee.

Mr. RANDOLPH. I thank the Senator. As I expressed before the committee when this nomination was ordered reported on September 22, I too am disturbed by the interpretation of the act that it can be used for social and economic problems. To the contrary, I believe it was the intent of the Congress that the act should not be used except for natural, physical disasters. Neither the legislative history nor, until recently, the implementation would support a broad interpretation covering social and economic problems.

Clear enunciation of congressional intent has been provided as recently as last fall, when the Congress extended monetary authorizations for the act. The committee report (No. 96-891) which accompanied S. 3027 stated:

The Committee clearly believes that this act should not be used for extraordinary occurrences not specifically enumerated in the statute. This law is not designed to provide assistance to incidents of strictly a social or economic nature.

When the monetary authorization bill (S. 3027) passed the Senate on September 26, 1980, Senator BURDICK—chairman of the subcommittee that wrote the 1974 act and manager of the bill—stated:

The Committee position has been clear that this Act could not also embrace social and economic distress in addition to the events set forth in the Act itself.

Mr. President, I believe these are very straightforward statements of congressional intent and legislative history. They do not support the broad application suggested by Mr. Thomas' answer.

I have a thorough study of the act and its implementation done by Dr. Clark F. Norton, specialist in American National Government at the Library of Congress. His study covers congressional actions on disaster relief legislation extending over 30 years. He was intimately involved in the development of the current and its predecessor legislation as a then member of the staff of the Public Works Committee.

In his report he states, and I quote:

No documentary evidence has been found showing that, in enacting the Disaster Relief Act of 1970 and 1974 and the various other amendments, Congress contemplated broadening disaster assistance coverage beyond the causes specifically listed in the law.

He states also:

In the absence of data to the contrary, it seems fair to conclude that there has been no congressional intent to expand the concept of "other catastrophe" in disaster relief legislation to include causes not commonly recognized as natural hazards.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of these remarks the relevant portions of the Congressional Research Service's study by Dr. Norton entitled "Other Catastrophe" Statutory Authority for Major Disaster Declarations."

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

(See exhibit 1.)

Mr. RANDOLPH. Mr. President, it is important that we not let this broad interpretation of the act go unchallenged. Not only are the intent and legislative history contrary to this interpretation. The record of implementation also is contrary. The Library of Congress study states:

Presidential authority to extend disaster assistance has been exercised almost exclusively in cases where damage was caused by or was closely related to some act of nature.

Nearly all of the 630 declarations of major disasters in the past 30 years have been for damages attributable to natural causes set forth in law such as floods, tornadoes, hurricanes, and earthquakes.

Mr. MURKOWSKI. I agree with what the Senator from West Virginia has said and I believe it is very important that it be stated at this time. To say nothing might imply acceptance or agreement with this broad, sweeping expansion of the act. Such an expansion could have major budgetary implications and should not be undertaken without full consideration by both the Congress and the administration.

I would inform my colleagues that the Subcommittee on Regional and Community Development—which I chair—has recently held hearings on the Disaster Relief Act and suggested amendments to it. A major concern of the committee is the ambiguity of the definition of disaster that could lead to a legal inter-

pretation that assistance under the act is not restricted to natural or physical phenomena. I expect the subcommittee will act this year to complete its work. Revisions to the act can be enacted before the end of this session.

Mr. STAFFORD. I greatly appreciate the remarks of the ranking member of the Committee on Environment and Public Works, (Mr. RANDOLPH), and of the Senator from Alaska (Mr. MURKOWSKI). This discussion is valuable in setting the record straight about the legislative history and congressional intent of the 1974 act.

You will be interested to know that I have just received a letter from Mr. Thomas about his intentions to administer the act. He states that he wishes to amplify on his oral testimony to the committee on September 22 and to clarify the written response delivered later to the committee prior to its business meeting on September 23. Remark- ing that he knows the strong views of the committee that the act should not apply to situations other than natural disasters and those causes specifically listed in the act, he states and I quote:

I share this view and assure you and the Committee that I will recommend declarations under the Act consistent with that interpretation.

I am glad to have this statement of his position, and I ask unanimous consent that a copy of the letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 2.)

Mr. RANDOLPH. I ask the chairman of the committee: Does he know if it is the view of this administration that the act can be used for social or economic problems?

Mr. STAFFORD. No, I do not. During the hearing I asked Mr. Thomas what is the view of this administration. He responded that he had not discussed it with them. I believe it is important that the officials in the agency determine the view of the new administration. I will want to do so as well before we proceed to markup amendments to the act.

EXHIBIT 1

"OTHER CATASTROPHE" STATUTORY AUTHORITY FOR MAJOR DISASTER DECLARATIONS

Since 1950 permanent statutory authority has authorized the President to declare a major disaster (and since 1974 to declare an emergency) because of the occurrence of what is listed in the law as an "other catastrophe," as well as for numerous other specific causes. The lack of a legal definition of this phrase, however, has led to questions, especially in recent years, about its meaning. In particular, whether or not it allows such a declaration to be made for other than so-called "natural events" has become an important issue.

Nearly all of the 630 declarations of major disasters in the past 30 years have been to provide Federal assistance for loss or damage attributable to one or more of the natural causes set forth in disaster relief laws, such as floods, tornadoes, hurricanes, earthquakes, etc. Nevertheless, in a few instances aid has been extended by the President in situations which resulted primarily, if not entirely, from human activity rather than natural hazards. A bill has been introduced in the Senate (S. 3027) in an attempt to clarify as well as to limit the reasons for which a Pres-

ident may declare a major disaster or emergency by inserting the words "physical or natural" before the word "catastrophe." The purpose of this report is to examine the legislative history, intent, previous application and interpretation of the "other catastrophe" clause and the possible effects which such an amendment might have in the future.

LEGISLATIVE HISTORY AND CONGRESSIONAL INTENT

Although the words "other catastrophe" have been incorporated in all three permanent disaster relief laws adopted since 1950, earlier usage of the same phrase may help to understand its meaning in the later acts. The same words appear in disaster measures adopted in 1947, 1948 and 1949 which in several respects serve as precedents for the 1950 basic law. The framers of the latter probably understood the phrase to have a context similar to that of the previous acts.

In the 1947 act (61 Stat. 422; P.L. 80-233; July 25, 1947) the War Assets Administration was directed to transfer to the Federal Works Administrator, whenever the President determined it to be necessary or appropriate because of a "flood or other catastrophe," personal property declared surplus under the Surplus Property Act of 1944. The Administrator of the latter in turn was authorized to loan or transfer such property, with or without compensation, to States and to local governments "situated in any area struck by any such flood or catastrophe."

By employing the word "struck" in conjunction with "flood or catastrophe," it could be inferred logically that Congress intended such surplus goods to be transferred only for damage caused by natural hazards and not for losses resulting from other types of events. It seems unlikely that the term catastrophe would have been used here to apply to purely man-made incidents, which are seldom thought of as "striking" an area. When an area is described as having been "struck" by a disaster, in normal parlance the reference is to some act of nature, such as a flood, earthquake or tornado. This interpretation is supported, moreover, by language in the Senate report on this provision, which refers to the use of surplus property for purposes of assisting in the "shelter, protection, and medical care of distressed people. . . ."

As part of the Second Deficiency Appropriation Act of 1948, Congress appropriated \$500,000 to enable the President to supplement State and local government efforts and resources whenever he found that "any flood, fire, hurricane, earthquake or other catastrophe" proved to be of enough severity to justify assistance (62 Stat. 1027; P.L. 80-785; June 25, 1948). With regard to the intended meaning of "other catastrophe," it is important to note a proviso in the act which stipulated that no expenditures could be made "with respect to any such catastrophe" until the Governor of a State had entered into a prescribed agreement. Rather than repeating the specific natural causes (flood, fire, hurricane, and earthquake) listed earlier, the proviso simply grouped them together in one category as "any such catastrophe."

It would seem reasonable to conclude, from this treatment of the word "catastrophe" as inclusive of other types of natural hazards, that Congress intended the phrase "other catastrophe" to apply only to such natural events not to man-made situations. Otherwise, it would have been necessary to list again the separate natural causes and to indicate, by adding the phrase "or other catastrophe," that assistance could be provided for other reasons. The interchangeable usage of the word "catastrophe" with specific natural hazards only appears on its face to exclude causes that were not purely acts of nature.

Footnotes at end of article.

The language of the report by the House Committee on Appropriations on this 1948 bill (H.R. 8935) provides further evidence substantiating this view. According to the Committee, the \$500,000 was being appropriated primarily for the purpose of relieving distress in a disastrous flood in the Columbia River Valley, but it also stated that the bill was "... written in such terms as to permit its use for any similar catastrophe occurring elsewhere."² The phrase "any similar catastrophe" as used here clearly seems to refer to damage that might be inflicted by some act of nature like a flood and not to other kinds of situations.

A similar conclusion can be implied from the wording of an act passed by Congress in 1949. An emergency fund of \$1 million was appropriated in the Independent Offices Appropriation Act for fiscal year 1950, which was to be used by the President to supplement the efforts and resources of State and local governments or other agencies in "alleviating hardship or suffering caused by flood, fire, hurricane, earthquake, or other catastrophe" (63 Stat. 631; P.L. 81-266; August 24, 1949). Just as in the 1948 appropriation act cited above, the language of the 1949 law lists the four specific natural hazards only once, then in subsequent provisions employs the phrase "such a catastrophe" three different times and the word "catastrophe" once to refer to them as an entity. Again, this seems to indicate that "other catastrophe" was used in this law to apply only to natural phenomena, since the phrase was used interchangeably with specifically listed natural hazards with no implication that it encompassed other types of causes.

The same reasons for extending disaster relief—flood, fire, hurricane, earthquake, or other catastrophe—contained in the 1948 and 1949 appropriation acts were repeated in the bill (H.R. 8396) which became the Disaster Relief Act of 1950. Although some attention was paid to the meaning of the words "other catastrophe" during consideration and passage of this bill, the evidence is not conclusive of congressional intent.

The possibility that damages inflicted during military or subversive operations might qualify as a catastrophic event was referred to in two of the ten comments on the bill submitted by departments and agencies to the House Committee on Public Works. Jess Larson, Administrator of the General Services Administration, stated that the measure "... evidently intended to apply in general to peacetime civilian disasters even though the definition of 'major disaster' in section 2(a) is broad enough to include disasters engendered by war, enemy attack, or subversive action." John L. Thurston, Acting Administrator of the Federal Security Agency, noted that the bill "... would be applicable to 'any catastrophe' which is a major disaster and thus seems to include disasters due to enemy action."³ The latter suggested that the relationship of peacetime disaster relief to civil defense ought to be considered.

Debate in the House of Representatives on the bill focused mainly on such issues as to whether or not Federal aid should continue to be extended, as it had been in the past, by special act of Congress each time a disaster occurred rather than by general legislation, and whether it would be appropriate to establish a new, probably expanding program at a time when the country was engaged in military action in Korea. Nevertheless, three members (all from Minnesota) suggested that disaster aid could be provided under the bill for damages caused by military activity. Representative Fred Marshall (Dem.-Minn.) conjectured that the phrase "or other catastrophe" could be the "vehicle that we might have to take care of damage

done by bombs." Representative Harold C. Hagen (Rep.-Minn.) said that it would include "bombing of cities like New York and Chicago," and Representative H. Carl Anderson (Rep.-Minn.) stated that in his opinion "... it could cover any calamity our people suffer." On the other hand, in response Representative John W. Byrnes (Rep.-Wis.) pointed out that the bill "... does not even mention disaster as the result of enemy action" and that aid for such damage would be handled "by legislation designed specifically for that purpose."⁴

These scattered references seem insufficient to demonstrate beyond doubt that Congress intended in the Disaster Relief Act of 1950 to expand the implied or unspecified reasons for which disaster assistance could be provided. With respect to those reasons the language of the bill and of the act was identical with that of the 1948 and 1949 appropriation acts discussed above. There is nothing to indicate, moreover, that the original author of H.R. 8396, Representative William Lemke (Rep.-N.D.), who died before the bill was enacted, did not simply incorporate the earlier phraseology without contemplating any change in its meaning. It is true that Representative Hagen, who suggested that "bombings" might be encompassed within the word catastrophe, did introduce a bill (H.R. 8461) similar to that of Representative Lemke. Nevertheless, neither the official committee reports nor the debates during passage of the bill indicate a clear intent by Congress to enlarge the scope of disaster causes beyond those falling within the category of natural events.⁵

Despite numerous occasions on which disaster assistance legislation has been considered during the past 30 years, there has been no change in the phrase "other catastrophe" as an addendum to particular listed causes for which a major disaster can be declared. In this period Congress adopted three basic laws, the Disaster Relief Acts of 1950 (P.L. 81-875), of 1970 (P.L. 91-606) and of 1974 (P.L. 93-288). Amendments to the 1950 Act were passed in 1951 (P.L. 82-107), in 1953 (P.L. 83-134), in 1955 (P.L. 84-71), in 1962 (P.L. 87-502), in 1966 (P.L. 89-769) and in 1969 (P.L. 91-79). The 1970 Act was amended in 1971 (P.L. 92-209) and in 1972 (P.L. 92-318 and 92-385), and the 1974 Act was extended for three years in 1977 (P.L. 95-51). In addition special disaster relief acts were adopted providing assistance in 1964 for damage inflicted by the Alaskan Earthquake (P.L. 88-451) and in 1965 by floods in the Pacific Northwest States (P.L. 89-41) and by a hurricane in the Southeast Gulf States (P.L. 89-339). Aid to elementary and secondary schools for disaster losses was authorized in 1965 (P.L. 89-313) and in 1968 (P.L. 90-247). Other acts not part of the basic disaster relief laws also have provided for flood insurance, loans for disaster losses incurred by homes, businesses and farms, and other types of assistance.⁶

Although Congress has taken formal action on measures affecting disaster relief law at least 18 times during the past three decades, the "other catastrophe" language in the basic legislation has remained intact. On the other hand, several specific reasons for which a major disaster may be declared, all but one of which clearly applied only to natural causes, were added in each of the three general statutes passed in this period. Drought and storm were joined by the 1950 Act to the four causes (flood, fire, hurricane, and earthquake) listed in the 1948 and 1949 Appropriations Acts noted above. Incorporated in the 1970 Act as further reasons were high-water, wind-driven water, and tidal wave, and in the 1974 Act tsunami, volcanic eruption, landslide, mudslide, snowslide, and explosion were also included. The latter—explosion—was the only one of the 11 new items which normally might be the direct result of a man-made as well as a natural cause.

No documentary evidence has been found showing that, in enacting the Disaster Relief Acts of 1970 and 1974 and the various other amendments, Congress contemplated broadening disaster assistance coverage beyond the causes specifically listed in the law. Even though a few proposals were made in the past decade to provide disaster aid for situations not attributable to acts of nature, such as economic suffering, severe unemployment, energy shortages, and home heating needs, none of them was adopted. For example, a bill (S. 2394) which would have amended the Disaster Relief Act to authorize a declaration of a major disaster for an area experiencing an economic disaster was passed by the Senate on August 3, 1971, but received no action in the House of Representatives. Economic disaster aid for communities also was proposed by a House bill (H.R. 808) in 1977, and at least two other bills (H.R. 3427 in 1977 and H.R. 3195 in 1979) advocated disaster aid during energy shortages. Likewise, a 1979 Senate bill (S. 1331) would have authorized the Director of the Federal Emergency Management Agency to provide assistance to any State or substate area in which he determined that an emergency existed.

It is important to note that, while none of these bills proposing to extend economic disaster aid became law, their authors apparently did not believe that the "or other catastrophe" phrase could be construed properly to apply to man-made events. Certainly there has been no lack of opportunity during the last 30 years, when 11 new specific causes were added and other amendments were being adopted, to review and broaden disaster assistance coverage to other types of situations. In the absence of data to the contrary, it seems fair to conclude that there has been no congressional intent to expand the concept of "other catastrophe" in disaster relief legislation to include causes not commonly recognized as natural hazards.

INTERPRETATION AND APPLICATION

In the absence of a clear legal definition of the words "other catastrophe," the interpretation and application of this phrase in actual practice assumes greater significance. Presidential authority to extend disaster assistance has been exercised almost exclusively in cases where damage was caused by or was closely related to some act of nature. There certainly has not been any extensive usage of the "other catastrophe" phraseology to provide aid for losses ascribed primarily to human causes. Although aid has been provided sometimes in situations under different legislative authority by the Small Business Administration, Farmers Home Administration, Veterans Administration, or other agencies, it seldom has been made available under the three basic Disaster Relief Acts of 1950, 1970 and 1974. Even with respect to the two causes listed in the law which are not necessarily the result of natural events only—fire and explosion (the latter added in 1974)—there have been very few declarations of a major disaster or an emergency.

A review of certain cases in which Presidents have refused to declare a major disaster or an emergency when requested by a State governor seems to indicate that in several instances the determination depended mainly upon the fact that losses were not incurred because of natural causes. Of course, this cannot be ascertained with finality from documentation only, because such a rejection may be for different reasons. For instance, a President may decide that a particular situation is not, and does not threaten to become, of sufficient severity or magnitude to warrant assistance, or that a State and its local subdivisions have not devoted a sufficient amount of their own efforts and resources to alleviate damage, hardship or suffering. Nevertheless, in the following instances it appears that a leading factor contributing to turndowns for requested assistance may have

Footnotes at end of article.

been the human involvement in the cause of the event itself:

- 1967—Riot damage in Detroit, Michigan.
- 1972—Railroad car explosion in Illinois.
- 1974—Collapsed bridge in Tennessee.
- 1974—Commercial salmon fishing loss in Washington because of a court-ordered reduced season.
- 1974—Train explosion and fire in Illinois.
- 1975—Water supply problem in New Jersey.
- 1977—Power outage and resulting damage in New York.
- 1977—Oil spills in Massachusetts and Rhode Island.
- 1977—Sewerage plant contamination in Kentucky.

On the other hand, assistance has been provided in a few instances under the authority of disaster relief laws for damage or suffering which appears to have been attributable more to human than to natural causes or where human error played a more significant role than some kind of natural hazard. Listed below are those few major disaster or emergency declarations by the President that have been located in which an act of nature does not appear to have been the primary determining factor:

- 1962—Accidental sinking of a chlorine-laden barge in the Mississippi River (major disasters Nos. 135 and 139; Mississippi and Louisiana, Oct. 10 and Nov. 5, 1962).
- 1963—Bursting of dam (Baldwin Hills), the cause of which was claimed to be inadequate construction and safety standards (major disaster No. 161; California; Dec. 21, 1963).
- 1972—Bursting of private slag-pile dam on Buffalo Creek attributed to unsafe structure (major disaster No. 323; West Virginia; Feb. 27, 1972).
- 1973—Flooding caused by failure of dam (major disaster No. 379; Colorado; May 8, 1973).
- 1976—Collapse of Teton Dam, a Bureau of Reclamation structure determined later to be faulty in engineering, construction and site location (major disaster No. 505; Idaho; June 6, 1976).
- 1977—Collapse of private, earthen dam at Toccoa Falls College (major disaster No. 541; Georgia; Nov. 7, 1977).
- 1978—Adverse impact of buried toxic chemicals at Love Canal, Niagara Falls City (emergency No. 3066; New York; Aug. 7, 1978).
- 1979—Emergency chemical waste disposal (major disaster No. 568; Kentucky; Dec. 12, 1978; amended Jan. 10, 1979, to provide assistance in disposing chemical waste).
- 1980—Extraordinary impact and expenses caused by arrival of large number of undocumented aliens from Cuba (emergency No. 3079; Florida; May 6, 1980).
- 1980—Relocation and temporary housing for families adversely affected by chemical wastes buried at Love Canal, Niagara Falls City (emergency No. 3080; New York; May 21, 1980).

Perhaps it should be pointed out also that a few major disaster declarations have been made in the past decade for damages resulting from acts of nature which are not listed specifically in disaster relief legislation. As noted below, Presidents have extended aid for losses incurred because of such matters as toxic algae, freezing, ice, frost and cold weather, none of which is included among the causes set forth by statute. Authority for these determinations must depend upon interpretation of the "or other catastrophe" clause. By making declarations for these particular reasons, a President in effect is recognizing that other natural causes for disasters exist which may be implied but have not been enumerated in the law. At the same time such declarations also may tend to support, at least to some extent, the viewpoint that the words "or other catastrophe" were intended to refer mainly to other acts of na-

ture than those listed and not to damage resulting from human factors.

1972—Damage to shellfish industry caused by toxic algae (the so-called "red tide"; major disasters Nos. 356 and 357; Maine and Massachusetts; Sept. 28, 1972).

1974—Freezing of red salmon spawning areas (major disaster No. 444; Alaska; June 24, 1974).

1977—Ice conditions preventing oystering on Chesapeake Bay (major disasters Nos. 524 and 525; Maryland and Virginia; Jan. 26, 1977).

1977—Citrus industry damage caused by frost and freezing (major disaster 526; Florida; Jan. 31, 1977).

1977—Shrimp loss because of cold weather (major disaster No. 536; Georgia; June 2, 1977, declared several months after the event occurred).

1980—Toxic paralytic shellfish poisoning (emergency No. 3082; Sept. 20, 1980).

FOOTNOTES

¹ U.S. Congress. Senate. Committee on Expenditures in the Executive Departments. Alleviation of Damage from Flood or Other Catastrophe. Report to Accompany S. 1515. Senate Report No. 435, 80th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1947. p. 3.

² U.S. Congress. House of Representatives. Committee on Appropriations. Second Deficiency Appropriation Bill, 1948. Report to Accompany H.R. 6395. House Report No. 2348, 80th Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1948. p. 2.

³ For departmental comments on the bill, see U.S. Congress. House of Representatives. Committee on Public Works. Authorizing Federal Assistance to States and Local Governments in Major Disasters. Report to Accompany H.R. 8396. House Report No. 2727, 81st Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1950. p. 5-16.

⁴ For these remarks and other debate on the bill, see Congressional Record v. 96, Aug. 7, 1950. p. 11908-11909.

⁵ The House report referred to the purpose of the bill as one to provide assistance to alleviate damage resulting from "a major peacetime disaster" and called attention to previous appropriations for "relief from floods and snowstorms," and the Senate report quoted the House report verbatim. See U.S. Congress. House of Representatives. Committee on Public Works. Authorizing Federal Assistance to States and Local Governments in Major Disasters. Report to Accompany H.R. 8396. House Report No. 2727, 81st Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1950. p. 2. U.S. Congress. Senate. Committee on Public Works. Authorizing Federal Assistance to States and Local Governments in Major Disasters. Report to Accompany H.R. 8396. Senate Report No. 2571, 91st Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., 1950. p. 1-2.

⁶ For a brief description of disaster relief legislation see U.S. Library of Congress. Congressional Research Service. Emergency Preparedness and Disaster Assistance: Federal Organization and Programs. Report No. 78-102 GOV, by Clark F. Norton. Washington. 1979. 119 p. p. 25-57.

EXHIBIT 2

FEDERAL EMERGENCY MANAGEMENT AGENCY,

Washington, D.C., October 2, 1981.

HON. ROBERT T. STAFFORD,
Chairman, Committee on Environment and
Public Works, U.S. Senate, Washington,
D.C.

DEAR MR. CHAIRMAN: The Committee has raised a question about my written response to Senator Burdick's question regarding the Administration's position on the application of the Disaster Relief Act to social and economic emergencies—or which the influx of Cuban refugees last year was one example.

I would like to amplify on my oral testimony to the Committee and to clarify the written response delivered later to the Committee prior to its business meeting approving the nomination.

I know the strong views of the Committee that the Disaster Relief Act should not apply to situations other than natural disasters and those causes specifically in the Act. I share this view and assure you and the Committee that I will recommend declarations under the Act consistent with that interpretation.

As I have discussed with members of the Committee and its staff, I would be pleased to work with you in considering revised definitions of "major disaster" and "emergency" under the Act if you feel it would be helpful for me to do so.

If any additional information is required, please do not hesitate to contact me.

Sincerely,

LEE M. THOMAS,
Associate Director-Designate,
State and Local Programs and Support.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

The motion to lay on the table was agreed to.

DEPARTMENT OF EDUCATION

The legislative clerk read the nomination of Gary L. Jones, of Virginia, to be Deputy Under Secretary for Planning and Budget.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

The motion to lay on the table was agreed to.

NATIONAL INSTITUTE OF EDUCATION

The legislative clerk read the nomination of Edward A. Curran, of Maryland, to be Director of the National Institute of Education.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was 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. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. KASTEN). The Chair on behalf of the President pro tempore, pursuant to the provisions of Public Law 92-484 appoints the Senator from Nevada (Mr. CANNON) to the Technology Assessment Board in lieu of the Senator from Illinois (Mr. STEVENSON) retired.

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 Acting President pro tempore 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.)

EXTENSION OF PERIOD OF PRODUCTION FOR NAVAL PETROLEUM RESERVE—MESSAGE FROM THE PRESIDENT—PM 81

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with section 7422(c) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422(c)), I wish to inform you of my decision to extend the period of maximum efficient rate production of the naval petroleum reserves for a period of three years from April 4, 1982, the expiration of the current statutorily mandated period of production.

I am transmitting herewith a copy of the report investigating the necessity of continued production of the reserves as required by section 7422(c)(2)(B) of the Naval Petroleum Reserves Production Act of 1976. In light of the findings contained in that report, I hereby certify that continued production from the naval petroleum reserves is in the national interest.

RONALD REAGAN.

THE WHITE HOUSE, October 6, 1981.

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following act and joint resolution:

On September 30, 1981:

S. 1475. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

On October 2, 1981:
S.J. Res. 78. Joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

S.J. Res. 103. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the 7 calendar days beginning October 4, 1981, as "National Port Week."

On October 5, 1981:
S.J. Res. 65. Joint resolution proclaiming Raoul Wallenberg to be an honorary citizen of the United States, and requesting the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom.

MESSAGES FROM THE HOUSE

At 11:06 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House had passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4. An act to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

ENROLLED BILL SIGNED

H.R. 4048. An act granting the consent of Congress to the agreement between the States of Kansas and Missouri establishing their mutual boundary in the vicinity of the French Bottoms near Saint Joseph, Missouri, and Elwood, Kansas.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House disagrees to the amendment of the Senate to the following bill:

H.R. 4608. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1026. An act to transfer responsibility for furnishing certified copies of Miller Act payment bonds from the Comptroller General to the officer that awarded the contract for which the bond was given; and

H.R. 1029. An act to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than \$2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible.

HOUSE BILLS REFERRED

The following bills were read twice by unanimous consent, and referred as indicated:

H.R. 1026. An act to transfer responsibility for furnishing certified copies of Miller Act payment bonds from the Comptroller General to the officer that awarded the contract for which the bond was given; to the Committee on the Judiciary.

H.R. 1029. An act to amend section 1 of

the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than \$2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible; to the Committee on the Judiciary.

HOUSE BILL PLACED ON CALENDAR

The following bill was read twice by unanimous consent, and placed on the calendar:

H.R. 4. An act to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources.

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-2019. A communication from the Deputy Assistant Secretary of Defense (Facilities, Environment, and Economic Adjustment), transmitting, pursuant to law, a report on a construction project to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC-2020. A communication from the Deputy Assistant Secretary of Defense (Facilities, Environment, and Economic Adjustment), transmitting, pursuant to law, a report on a construction project to be undertaken by the Army Reserve; to the Committee on Armed Services.

EC-2021. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the transient aircraft maintenance function at Maxwell Air Force Base, Alabama, and the decision that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC-2022. A communication from the Deputy Secretary of Agriculture, transmitting, pursuant to law, notice that a report on planned programming of food assistance will be delayed until approximately October 9, 1981; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2023. A communication from the Director of Congressional Relations, Federal Home Loan Bank Board, transmitting, pursuant to law, the annual report of the Board on the economic viability of depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC-2024. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Comptroller of the Currency Needs Authority to Dispose of Property Remaining from Failed National Banks"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2025. A communication from the Acting Director of the Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a report of the National Institute on Aging Panel on the Experienced Pilots Study; to the Committee on Commerce, Science, and Transportation.

EC-2026. A communication from the Chairman of the Federal Communications Commission, transmitting, a second set of proposals for revision of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

EC-2027. A communication from the Secretary of the Federal Trade Commission, transmitting, an errata sheet to accompany the

previously submitted annual report of the Commission; to the Committee on Commerce, Science, and Transportation.

EC-2028. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the report of the Commission on the Rail Carrier Cargo Liability Study; to the Committee on Commerce, Science, and Transportation.

EC-2029. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2030. A communication from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, notice notifying the Congress that the first segment of the system will begin operation on October 1, 1981; to the Committee on Energy and Natural Resources.

EC-2031. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a report stating that it is necessary to construct modifications to Guernsey Dam, North Platte River project, Wyoming; to the Committee on Energy and Natural Resources.

EC-2032. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the administration's quarterly report on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; refinery activities; and inventories; exploratory activity; exports; nuclear energy; and electric power; to the Committee on Energy and Natural Resources.

EC-2033. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Eliminating Contractor Inspections of Federal Water Projects Could Save Millions"; to the Committee on Environment and Public Works.

EC-2034. A communication from the Deputy Secretary of the Treasury transmitting a draft of proposed legislation to amend the State and Local Fiscal Assistance Act to reduce the Federal payment for fiscal year 1982 by 12 percent; to the Committee on Finance.

EC-2035. A communication from the Acting Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of International agreements other than treaties entered into within the previous 60 days; to the Committee on Foreign Relations.

EC-2036. A communication from the Custodian of Group Insurance and Retirement Plans, Department of the Army, transmitting, pursuant to law, the fiscal year 1980 Report on the U.S. Army Nonappropriated Fund Retirement Plan; to the Committee on Governmental Affairs.

EC-2037. A communication from the Secretary of the Retirement Committee of the Farm Credit Banks of Texas transmitting, pursuant to law, the annual report on the financial condition of the Farm Credit Banks of Texas Retirement Plan; to the Committee on Governmental Affairs.

EC-2038. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, the audit of the National Credit Union Administration for the year ending December 31, 1980; to the Committee on Governmental Affairs.

EC-2039. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, notice of its approval of the design of the District of Columbia government's Water and Sewer Billing System; to the Committee on Governmental Affairs.

EC-2040. A communication from the Deputy Director of ACTION transmitting, pursuant to law, a report on a new Privacy Act

system of records; to the Committee on Governmental Affairs.

EC-2041. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Fraud in Government Programs: How Extensive Is It? How Can It Be Controlled?"; to the Committee on Governmental Affairs.

EC-2042. A communication from the Secretary of the Trust Committee of the Ninth Farm Credit District transmitting, pursuant to law, its "Statement of General Information" for the plan ended February 28, 1981; to the Committee on Governmental Affairs.

EC-2043. A communication from the Acting Commissioner of Immigration and Naturalization transmitting, pursuant to law, copies of orders suspending certain deportations pursuant to section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 4612. An act to temporarily delay the October 1, 1981, increase in the price support level for milk and to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 1672. A bill to expand the membership of the United States Holocaust Memorial Council from sixty to sixty-five and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 222. An original resolution authorizing supplemental expenditures by the Committee on the Judiciary; referred to the Committee on Rules and Administration. (Rept. No. 97-200).

By Mr. DENTON, from the Committee on the Judiciary, with amendments:

S. 391. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships (Rept. No. 97-201).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation: James J. Carey, of Illinois, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1985; and Harold E. Shear, of Connecticut, to be Administrator of the Maritime Administration.

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

Mr. PACKWOOD. From the Committee on Commerce, Science, and Transportation, I also report favorably two nomination lists in the Coast Guard which have previously appeared in the

CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 9 and September 24, 1981, at the end of the Senate proceedings.)

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

James R. Ambrose, of North Carolina, to be Under Secretary of the Army; and

Jay Raymond Sculley, of Virginia, to be an Assistant Secretary of the Army.

Mr. COHEN. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: in the U.S. Naval Reserve there are 20 permanent promotions to the grade of rear admiral (list begins with Nelson O. Heyer) and Maj. Gen. James H. Ahmann, U.S. Air Force, to be lieutenant general. I ask that these names be placed on the Executive Calendar.

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

Mr. COHEN. In addition, in the Air Force Reserve there are 73 promotions to the grade of lieutenant colonel (list begins with Donald K. Acheson), in the Regular Air Force there are 2,635 promotions to the grade of major (list begins with Paul R. Aarnio), in the Navy there 169 permanent promotions to the grade of commander and below (list begins with Stephen M. Bahr), and in the Marine Corps and Marine Corps Reserve there are 798 permanent appointments/promotions to the grade of lieutenant colonel and below (list begins with Jeffrey L. Abate). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 24, 1981, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. McCLURE (by request):

S. 1705. A bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. CHAFEE, Mr. COHEN, Mr. DURENBERGER, Mr. HART, Mr. DODD, Mr. TSONGAS, Mr. RUDMAN, Mr. DANFORTH, Mr. MOYNIHAN and Mr. LEAHY):

S. 1708. A bill to amend the Clean Air Act to better protect against interstate transport

of pollutants, to control existing and new sources of acid deposition, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HART:

S. 1707. A bill to amend the Internal Revenue Code of 1954 to impose a tax on the importation of crude oil and refined petroleum products, to transfer the revenues from such tax, and from any oil import fee imposed by the President, to the Social Security Trust Fund, to reduce social security taxes, and to expand lower income energy assistance; to the Committee on Finance.

By Mr. TSONGAS (for himself, Mr. CRANSTON, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. WEICKER, Mr. KENNEDY, and Mr. INOUE):

S. 1708. A bill to prohibit discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 1709. A bill to amend the Clean Air Act to provide for a program to control acid precipitation; to the Committee on Environment and Public Works.

By Mr. ANDREWS:

S. 1710. A bill to designate the sunflower as the national flower of the United States; to the Committee on the Judiciary.

By Mr. HATCH:

S.J. Res. 113. Joint resolution to designate the week beginning November 8, 1981, as "National Home Health Care Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE (by request):

S. 1705. A bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Energy and Natural Resources.

TEMPORARY USE OF PUBLIC LANDS UNDER CONTROL OF THE BUREAU OF LAND MANAGEMENT

● Mr. McCLURE. Mr. President, today I am introducing, by request, a bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use of Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior.

The objective of the bill is to amend the Federal Land Policy and Management Act of 1976 in such a way as to preserve the system under which the Secretary of the Interior awarded temporary use permits to the armed services for maneuvers and for Corps of Engineers projects on land controlled by the Bureau of Land Management.

The bill simply expands the means through which Federal departments and agencies may obtain authority to use Federal lands by authorizing the Secretary of the Interior to issue temporary use permits to such departments and agencies. Presently there are three: First, rights-of-way; second, withdrawals; and third, cooperative agreements.

I ask unanimous consent that the bill be printed in the RECORD along with the letter of transmittal from the Department of the Army.

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

S. 1705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) is amended by inserting the phrase "temporary use permits" between the comma following the words "Section 204 of this Act" and the word "and" in the first proviso.

DEPARTMENT OF THE ARMY,

Washington, D.C., September 2, 1981.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior."

The proposed legislation is part of the Department of Defense Legislative Program for the 97th Congress. The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the presentation of this legislation for the consideration of the Congress. The Department of the Army has been designated the representative for the Department of Defense for this legislation. It is recommended that this legislation be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to authorize temporary use of public lands by Federal departments and agencies under such regulations as may be promulgated by the Secretary of the Interior.

The provisions of section 302(b) of the Federal Land Policy and Management Act of 1976 authorize the Secretary of the Interior to permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way, withdrawals, and cooperative agreements where the proposed use and development are similar or closely related to programs of the Secretary of the Interior for the public lands involved. These provisions severely limit the ability of Federal departments and agencies to use public lands on a temporary basis and, in fact, are more restrictive than the provisions for private use of such lands.

The amount and variety of Interior-controlled public land in the continental United States and Alaska, together with its diversified terrain and climatic conditions, present the military services with opportunities to vary their training operations and yet not require the use of any one particular area on a recurring basis. In addition, there are frequent occasions where requirements for the temporary use of public lands for other than military training arise. These uses include, but are not limited to, surveys and exploratory work (surface and subsurface test holes) in connection with feasibility studies for military and civil non-military projects, and the testing of various types of military or other equipment. The proposed amendment would authorize the issuance of such short-term temporary permits. In no case would such interim use authorizations guarantee approval of the requested use authorization or authorize permanent construction or other activities not acceptable to the Secretary of the Interior on the land in question.

The provisions of section 501(a) of the Federal Land Policy and Management Act specify the purposes for which rights-of-way may be granted by the Secretary of the Interior. For the most part, these purposes are limited to those uses which require the employment of lineal areas of land, such as canals, pipelines, and roads. It is possible

that very liberal interpretations of the provisions of section 501(a) could result in the granting of rights-of-way for some minor maneuvers or Corps of Engineers' functions. It is almost certain, however, that the use of large areas of public lands for other military operations, such as the major winter and summer exercises in Alaska, could not be authorized through rights-of-way. In addition, the liberal interpretations of the rights-of-way provisions would be the subject of constant debate and confusion. As a result, the enactment of this legislation is preferable to reliance on the present provisions.

The remaining methods of obtaining authority to use public lands are not readily adaptable to the requirements for temporary military use of such areas. The successful withdrawal of areas required for only temporary uses might well frustrate other Congressional intentions, such as those expressed in the Alaska Native Claims Settlement Act (43 U.S.C. 1600). The acquisition of temporary military use of public lands through cooperative agreements with the Secretary of the Interior, although feasible, is improbable because of the requirement that the proposed use of the land be similar or closely related to the programs of the Secretary for the public land involved.

The temporary use is consistent with procedures formerly used by the Bureau of Land Management, Department of the Interior, to authorize special uses of public lands on a temporary basis (43 CFR 2920). Our proposal recognizes that the Secretary of the Interior will use the more detailed procedures recognized in FLPMA, section 302(b), for permitting long-term use, occupancy or development by Federal departments or agencies on public land areas managed by the Bureau of Land Management. Of course, issuance of temporary use permits would be subject to environmental review by the Secretary of the Interior in the same manner as are other land use authorizations. Temporary use permits will be issued for periods not exceeding three years. Such a limitation is consistent with the three year limitation on other types of temporary use permits currently authorized by regulations in 43 FR 2801.1-1 that cover rights-of-way under the Federal Land Policy and Management Act of 1976, and in 43 CFR 2881.1-2 that cover rights-of-way under the Mineral Leasing Act.

COST AND BUDGET DATA

Enactment of this amendment will cause no apparent increase in budgetary requirements for the Department of Defense.

Sincerely,

PAUL W. JOHNSON,
Deputy for Installations and
Housing OASA (IL&FM).●

By Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. CHAFFEE, Mr. COHEN, Mr. DURENBERGER, Mr. HART, Mr. DODD, Mr. TSONGAS, Mr. RUDMAN, and Mr. DANFORTH):

S. 1706. A bill to amend the Clean Air Act to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; to the Committee on Environment and Public Works.

ACID DEPOSITION CONTROL ACT

(The remarks of Mr. MITCHELL, Mr. CHAFFEE, and Mr. STAFFORD on this legislation appear earlier in today's RECORD.)

By Mr. HART:

S. 1707. A bill to amend the Internal Revenue Code of 1954 to impose a tax on the importation of crude oil and refined

petroleum products, to transfer the revenues from such tax, and from any oil import fee imposed by the President, to the social security trust fund, to reduce social security taxes, and to expand lower income energy assistance; to the Committee on Finance.

OIL IMPORT FEE

● Mr. HART. Mr. President, today, the Reagan administration notified Congress of its intent to sell five AWACS and other aircraft equipment to Saudi Arabia. The administration contends the proposed sale is in the best interest of U.S. national security, as well as the interests of the Saudis. But we do recognize the real threat to U.S. security? The threat posed by our excessive dependence on foreign oil. The proposed AWACS sale reveals the failure of our national energy policy.

Two months ago, the administration submitted its national energy plan to Congress. In that report, the administration's forecast showed American oil imports rising during the 1980's—to 7 or 8 million barrels a day, maybe even higher. This was the administration's so-called "free market" strategy. It offered no serious measures to reduce our oil imports, only plans to eliminate some of our most promising programs promoting conservation and renewable energy.

This policy carries dire consequences for the United States. Oil is the lifeblood of the Western World. If Saudi oil supplies were interrupted for just 1 year, the American economy would suffer its greatest blow since the Great Depression.

The administration recognizes this potential catastrophe. It proposes we spend approximately \$4.5 billion on the rapid deployment force and \$1.5 billion to fortify the American military bases near the Persian Gulf. And now, it proposes—against our best interests—to sell the AWACS to the Saudis.

This "oil boat diplomacy" is unnecessary and a threat to our national interest. While the administration is compelled to spend billions of dollars to protect American interests in the Middle East, it has failed to address the underlying problem—our excessive dependence on imported oil, especially Middle East oil. While the administration contends we should sell AWACS to the Saudis, it has proposed drastic cuts in appropriations for nonconventional fuels. While the administration talks openly of fighting a war to maintain the flow of oil from the Persian Gulf it opposes standby measures to allocate crude oil and petroleum products during a severe disruption.

It seems appropriate that today, as we begin consideration of this new arms sale to Saudi Arabia, that we also address the real threat to the U.S. security—our dependence on foreign oil. Therefore, I am proposing the imposition of a fee on imports of crude oil and refined petroleum products. This fee is warranted on both economic and security grounds as a reasonable and efficient way to reduce the level of American oil imports. Working through the price mechanism, the import fee will encourage cutbacks in domestic oil demand which in turn will help to prevent future price increases. Moreover, by holding down energy prices we can minimize the inflationary drag of high oil

prices on long-run economic growth. In addition, the oil import fee will reduce the transfer of national income from the United States to oil-producing States and thus improve our balance of payments.

An oil import fee will also enhance our national security. By reducing our dependence on foreign oil, we decrease our vulnerability to future oil supply interruptions. Furthermore, enactment of this proposal will send to other oil-consuming nations and to OPEC producers an unmistakable message of our willingness and ability to curb our demand for foreign oil. This message will tell the oil exporters that they cannot continue to ratchet up oil prices.

Energy analysts estimate a \$10-per-barrel import fee would lead directly to import savings of at least a half million barrels per day over the next 2 or 3 years. More importantly, the import fee would increase oil prices and thereby encourage greater energy efficiency and more substitution of other fuels for oil.

Of course, although an oil import fee encourages import reductions, it will impose certain economic costs. Therefore, in this bill, I am also proposing to rebate all of the revenues collected under the import fee to taxpayers through reductions in social security taxes and low-income energy assistance. This provision should mitigate any loss of consumer purchasing power induced by the oil import fee.

America's energy problem is clear—an unnecessary, excessive, and dangerous dependence on foreign oil. In spite of oil price decontrol and the response of international oil markets to substantially higher prices, the United States remains dangerously dependent on OPEC oil supplies.

The imposition of an oil import fee would represent an important step toward the achievement of our energy independence. Together with efforts to build a balanced energy mix based on improved energy efficiency and increased domestic production of conventional fuels and renewables, an oil import fee can enable our Nation to attain greater energy sufficiency.●

By Mr. TSONGAS (for himself, Mr. CRANSTON, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. WEICKER, Mr. KENNEDY, and Mr. INOUE):
S. 1708. A bill to prohibit discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

LEGISLATION TO PROHIBIT EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION

● Mr. TSONGAS. Mr. President, I rise today on behalf of myself, Senators CRANSTON, PACKWOOD, MOYNIHAN, WEICKER, KENNEDY, and INOUE, to introduce legislation that will amend title VII of the 1964 Civil Rights Act to prohibit employment discrimination based on sexual orientation. This law already bans job discrimination on the basis of sex, race, color, religion, and national origin. As a matter of consistency and simple justice, we should not allow discrimination in employment to be based on sexual orientation.

I recognize that this is an emotional issue, and that the legislation introduced today will be denounced and distorted. To me it is primarily a matter of equal rights and, indeed, a matter of privacy. Most employees do not allow their sexual orientation to interfere with their work. This bill simply provides a legal recourse for persons fired or denied employment because of this aspect of their private lives. While my bill prohibits employment discrimination, it does not require nor suggest affirmative action programs for homosexuals.

Employment discrimination against homosexual persons generally occurs after the individual has been hired. Typically, the supervisor discovers that an individual is gay, and has the employee dismissed. A study by the National Institute of Mental Health, for example, showed that over 16 percent of all gay people in this country have employment problems and over 9 percent lose their jobs solely because of their sexual orientation. Without legal protection, such a person's livelihood is jeopardized for a lifetime. This causes undue mental anxiety, and robs the community of that individual's talents and productivity. The result is wasteful and unjust.

Moreover, job discrimination essentially deprives gay people of a basic constitutional right: the right to privacy. The use of an irrelevant factor, such as sexual orientation, in evaluating an applicant or employee is a blatant invasion of that person's privacy. Despite satisfactory performance on the job, gays have long been looked on by employers as second-class citizens solely on account of their personal lives. If such discriminatory practices are not made illegal, the right to privacy of an estimated 10 percent of the population will continue to be devalued—along with their dignity and self-respect.

The issue of nondiscrimination against gays in employment is gaining acceptance in many cities throughout the country. In the past decade, three States and more than 40 municipalities have adopted statutes barring discrimination against gay people in employment. And despite the dire predictions of those who opposed them, these statutes have worked well.

Nondiscrimination in employment has also found wide acceptance in the business community. Among the many firms that have announced nondiscrimination policies are A.T. & T., DuPont, Ford, and IBM. The following statement by Penn Mutual Insurance Co. speaks to the sound reasons for business support for nondiscrimination:

It is Penn Mutual's policy to provide equal employment and advancement opportunities for all employees, regardless of their race, color, religion, sex, national origin, age or sexual preference. Equality of opportunity is a sound business objective that, by allowing us to make effective use of human resources, helps us secure profitable growth.

In addition, the American people have indicated growing support for fair employment for gay citizens. Virtually all of the national polls—including Gallup, Harris, and NBC/Associated Press—have consistently shown that a majority of Americans favor extending fair employment laws to gay people.

Mr. President, the issue is simple. Every American must have an equal right to a job based on his or her ability. Sexual orientation is essentially a private matter that should have nothing to do with job performance. This legislation is consistent with strong public disapproval of Government intrusion in the private lives of Americans. Despite the issue's sensitivity, it is fundamentally a matter of equal rights under the law. I invite my colleagues to join Senators CRANSTON, PACKWOOD, MOYNIHAN, WEICKER, KENNEDY, INOUE, and myself in our effort to end this form of discrimination.

Mr. President, I ask unanimous consent that the text of S. 1708 be printed in the RECORD, along with a listing of corporations that support nondiscrimination in employment on the basis of sexual orientation, and municipalities and States with laws that bar such discrimination.

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

S. 1708

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

EQUAL EMPLOYMENT OPPORTUNITIES

SECTION 1. (a) Sections 703(a), 703(b), 703(c), 703(d), 703(e), 703(j), 704(b), 708(g), and 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, -3, -5, and -16) are amended by inserting after "sex" each place it appears a comma and the following: "sexual orientation".

(b) Section 717(c) of such Act (42 U.S.C. 2000e-16) is amended by inserting "sexual orientation," after "sex".

(c) (1) Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after "sex" the first place it appears a comma and the following: "sexual orientation".

(2) Such section 703(h) is further amended by inserting after "sex" the second place it appears a comma and the following: "sexual orientation".

DEFINITION

SEC. 2. Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) is amended by adding at the end thereof the following new subsection:

"(1) The term 'sexual orientation' means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice."

PROVISION TO PREVENT MISINTERPRETATION

SEC. 3. No amendment made by this Act shall be construed to permit or require—

(1) the determination that discrimination exists to be based on any statistical differences in the incidence of persons of a particular sexual orientation in the general population as opposed to in the activity wherein such discrimination is alleged; or

(2) the fashioning of any remedy requiring any sort of quota for the activity under which such discrimination is alleged for persons of any particular sexual orientation.

RIGHT OF PRIVACY PROTECTED

SEC. 4. Nothing in this Act or any amendment made by this Act shall be construed to require any person to disclose a personal sexual orientation.

CORPORATIONS NOT DISCRIMINATING

Corporations which have stated that they do not discriminate in employment on the basis of sexual orientation:

ACF Industries, Addressograph Multigraph, Allied Chemical, American Airlines, Ameri-

can Brands, Inc., American Broadcasting Co., American Can Co.

American Motors Co., AT&T, AMP Inc., Bank of America, Bell and Howell, Bendix, Bemis, Bethlehem Steel Co.

Boise Cascade Co., Bristol Meyers Co., Carnation, Carrier Co., CBS, Celanese, Chesebrough-Ponds Inc., Cincinnati Milacron.

Citicorp, Colgate-Palmolive Co., Collins and Alkman, Conagro, Congoleum, Control Data Co.

Coors Co., Corning, CPC International, Crown Zellerbach, Cutler-Hammer, Inc., American Cyanamid, Cyclops.

Dana, Dart, Dow, DuPont de Nemours, Eastern Airlines, Eaton, Exxon, Fairchild, Federal Mogul, Ferro Co., Fieldcrest Mills, Inc.

Firestone, Ford, General Electric, General Foods Co., General Mills, Inc., General Motors Co., General Signal Co., Genesco.

Green Giant Co., Greyhound Co., Gulf Oil Co., Gulf and Western Ind. Inc., Hanna Mining Co., Honeywell, Hoover Universal, IBM.

Inland Steel Co., Joy Manufacturing Co., Kellogg Co., Kimberly-Clark Co., Knight-Ridder Newspaper, Inc.

Kodak, Klippers, Levi Strauss and Co., Lilly and Co., Louisiana-Pacific Co., Lowenstein and Sons, Inc.

McDonalds, McDonnell Douglas Co., McGraw-Hill Inc., Merck and Co., Inc., Minnesota Mining and Mfg. (3M), Mobil Oil Co., Monsanto, Multifoods.

NBC, National Can, Natamas Co., Norton Co., Norton Simon Inc., Ogden Co., Olinkraft, Oscar Meyer and Co.

Penn Mutual Life Ins. Co., Philip Morris, Inc., Pillsbury Co., Potalatch Co., PPG Industries, Proctor and Gamble, Quaker State Oil, Quaker Oats Co.

Republic Steel, Rockwell International, Rohm & Haas Co., Schering Plough, Scott, Scovill, SCM Co., Staley Mfg. Co.

Standard Brands Inc., Sterling Drug, Inc., Sun Company, Texaco, Time, Inc., TRW, Union Carbide, Union Oil/California.

United Merchants, Warner Communications, Inc., Washington Post Co., Western Electric, Weyerhaeuser Co., Williams Co., Witco Chemical, Xerox.

MUNICIPALITIES THAT BAR DISCRIMINATION

Among the over 40 municipalities with ordinances that bar discrimination in employment on the basis of sexual orientation and date act was enacted:

Alfred, NY, May 1974.
Amherst, MA, May 1976.
Ann Arbor, MI, July 1972.
Aspen, CO, November 1977.
Atlanta, GA, July 1971.
Austin, TX, July 1975.
Berkeley, CA, October 1978.
Bloomington, IN, December 1975.
Boston, MA, April 1976.
Champaign, IL, July 1977.
Chapel Hill, NC, September 1975.
Columbus, OH, January 1979.
Cupertino, CA, February 1975.
East Lansing, MI, May 1973.
Evanston, IL, August 1980.
Hartford, CT, April 1979.
Honolulu, HI, March 1981.
Iowa City, IA, May 1977.
Ithaca, NY, September 1974.
Los Angeles, CA, May 1977.
Madison, WI, March 1975.
Marshall, MN, April 1975.
Milwaukee, WI, July 1980.
Minneapolis, MN, April 1974.
Mountainview, CA, March 1975.
New York, NY, January 1978.
Palo Alto, CA, August 1974.
Philadelphia, PA, October 1980.
Portland, OR, December 1974.
Pullman, WA, April 1976.
San Francisco, CA, July 1978.
Santa Barbara, CA, August 1975.

Seattle, WA, October 1975.

Troy, NY, January 1979.

Tucson, AZ, January 1977.

Urbana, IL, April 1979.

Washington, D.C., November 1973.

Yellow Springs, OH, July 1975.

States with statutes that bar discrimination in employment on the basis of sexual orientation and date enacted:

California, April 1979.

Michigan, March 1981.

Pennsylvania, April 1976. ●

● Mr. MOYNIHAN. Mr. President, I am pleased to join Senator TSONGAS in again introducing legislation to prohibit employment discrimination against gay people. The measure we introduce today is identical to that which we proposed during the 96th Congress. I would simply reiterate the statement I made on that occasion.

I have always opposed discrimination of any kind. I see no reason why the Federal Government should treat gay men and women differently from anyone else. Guarantees against employment discrimination accorded other citizens should protect all citizens.

My opinions on this matter are long-held ones. However, I would wish to again acknowledge my debt to the insights of an old friend and sometime staff member of mine, Mr. Robert Livingston. He was a most persuasive proponent of ridding the law of any bias against sexual orientation. I ask unanimous consent that my 1976 letter to Mr. Livingston on this subject be printed in the RECORD. To the sadness of many, Bob Livingston died in 1979. I am pleased to honor his memory by again introducing this legislation and would urge my colleagues to support it.

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

DANIEL PATRICK MOYNIHAN,

New York, N.Y., October 12, 1976.

ROBERT L. LIVINGSTON, Esq.,
The National Gay Task Force,
New York, N.Y.

DEAR MR. LIVINGSTON: I strongly oppose and have always opposed discrimination of all sorts, including discrimination against gay men and women. That means first that the Federal government should treat gay people no differently from anyone else; both in its employment practices and in the guarantees extended to other citizens by Federal law. And it means that the right to privacy of all American citizens must be upheld.

Feeling as I do, I therefore endorse the aims of HR 5452 and will, at the appropriate time, cosponsor a Senate equivalent which endorses legislation at the Federal level which would prohibit discrimination on the basis of sexual or affectional preference in the areas of employment, housing, public accommodation and all publicly-funded programs.

Sincerely yours,

DANIEL PATRICK MOYNIHAN. ●

By Mr. MOYNIHAN:

S. 1709. A bill to amend the Clean Air Act to provide for a program to control acid precipitation; to the Committee on Environment and Public Works.

ACID PRECIPITATION CONTROL ACT OF 1981

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a measure which would at long last do something to con-

trol one of our Nation's most alarming environmental problems—acid rain.

From hearings I have held in New York State, from the testimony of expert witnesses, and from the dramatic stories of those who live in regions which suffer from acid rain, the evidence is quite clear: If we do not act, and do not act soon, we run the risk of causing irreversible damage to our environment not the least of which will be turning our acid-sensitive lakes into large vats of vinegar.

When sulfur dioxide and nitrogen oxide emissions are released into the atmosphere they can be transported hundreds, even thousands, of miles by prevailing winds. These pollutants then return to Earth in a process that acidifies rain, snow, and other forms of precipitation.

There is only one "plausible explanation for acid deposition" in the judgment of a recent report released by the National Research Council. The council confirms that sulfur dioxide and nitrogen oxide emissions from manmade sources such as powerplants, industrial, commercial, residential boilers, and motor vehicles are the cause.

This Nation, through its Congress, has acted responsibly to cleanse the air we breathe and free our atmosphere of devastating pollution. But the structure of existing law, specifically the Clean Air Act, is not adequate to deal effectively with the problem of acid rain. The provisions of that act were designed to protect ground-level air quality. They are not the appropriate controls for pollutants which have traveled many miles, across State boundaries, to their destination.

While the matter of acid rain concerns me as a New Yorker—New York being one of several States dramatically affected by the acid rain phenomenon—I should say that the effects of acid rain threaten the environment of a good part of North America. We are talking about 22 million tons of annual sulfur dioxide emissions in the Eastern half of the United States alone. There are over 200 lakes and ponds in the Adirondack Mountains in New York that have lost all aquatic life. There are thousands of such lakes in Canada.

Thousands of additional acres of pond water are endangered. Heavy metal concentrations in acidified water are killing fish and threatening human life when vital water supplies become involved. Buildings and statues have been found to erode under the corrosive effect of acid precipitation. Soil nutrients are subject to accelerated leaching. We are now even aware that these pollutants can sometimes filter to Earth without a rainfall—drifting down from the sky in the form of fine particulates which can lodge in the lungs and jeopardize human health.

Mr. President, I am a member of the Senate Environment and Public Works Committee and thus, particularly sensitive to the grave danger posed by acid rain. I am also a Senator with some experience in matters of international significance and I must say that the question of acid rain deeply troubles our neighbor to the north, Canada. Even as

I speak, representatives of the Canadian Government are here on Capitol Hill to testify about that nation's fear of acid precipitation. Canada has some million square kilometers of "acid-sensitive terrain" within its borders, according to the National Research Council. And the Canadians are not incorrect in pointing out that a large portion of the pollutants falling on that terrain generate from sources within the United States.

While it is true that emissions from Canadian sources also travel to the United States, the Canadians are taking action to limit their emissions. The Province of Ontario is requiring a significant reduction in sulfur dioxide emissions at the Inco, Ltd. smelting operation in Sudbry, Ontario. The Province has also directed Ontario Hydro to undertake an emissions reduction program that will require a capital expenditure of \$500 million and annual operating costs of \$90 million. In December 1980, the Canadian Parliament unanimously passed amendments to their Clean Air Act giving the Canadian Federal Government authority to deal with transboundary air pollution.

The Canadians have taken appropriate action. It is time for our Nation to do so as well. We might not know all there is to know on the subject of acid precipitation, but we can recognize, clearly, that there is imminent danger. I sponsored the Acid Precipitation Act of 1980 which established an interagency task force to coordinate an acid precipitation assessment program. Thus, I understand the need for continued, even accelerated, research into the subject. However, I feel we know enough now to begin our effort at controlling the causes of acid precipitation. As the National Research Council notes:

Continued emissions of sulfur and nitrogen oxides at current or accelerated rates, in face of clear evidence of serious hazard to human health and to the biosphere, will be extremely risky from a long-term economic standpoint as well as from the standpoint of biosphere protection.

The action we take to control acid rain must be sensible, it must be reasonable, and it must be cost effective. The bill I introduce today meets those goals.

Approximately 80 percent of all current sulfur dioxide emissions in the United States originate in a 31-State region consisting of States bordering on or lying east of the Mississippi River. Fossil-fuel burning electric powerplants account for the largest share of sulfur dioxide emissions, representing about two-thirds of the total. As such, this bill targets its directives on the 31-State region and declares that area to be an acid rain mitigation (ARM) region.

Under the bill States within the ARM region which have large powerplants that are the major emitters of sulfur dioxide would be required to achieve the greatest reductions in levels of sulfur dioxide emissions. These States are assigned emission reduction requirements equal to 85 percent of the actual emissions from those large powerplants and they will be given until December 31, 1991 to meet that goal. Large powerplants would be defined as those emit-

ting over 50,000 tons of sulfur dioxide per year at a rate of more than 3 pounds of sulfur dioxide per million British thermal units (Btu) of output. Generating units subject to new source performance standards under the Clean Air Act are excluded from the reduction calculation. There is also a maximum amount that any State may be asked to reduce. That maximum figure would be based upon a percentage of a State's total allowable emissions. No State will be asked to do more than it can reasonably be expected to achieve.

The mission reductions required by this bill must take place in addition to whatever other reductions occur as sources come into compliance with current provisions in State implementation plans and new source performance standards. Compliance with currently enforced Clean Air Act provisions will result in a 2- to 3-million ton reduction in annual sulfur dioxide emissions. This bill provides for an additional reduction of just over 6 million tons in annual emissions by December 31, 1991. The total reduction in annual sulfur dioxide emissions is therefore between 8 and 9 million tons.

This bill gives States the complete flexibility to select whatever measures they want to achieve their emission reduction requirements, including the ability to trade emissions offsets between States. Each State is responsible for amending its current State implementation plan to include a program to attain the specified emission reduction requirement by December 31, 1991. Because the emission reduction requirements are well targeted, fewer States need to be involved in the process of amending State implementation plans.

Should a State fail to amend its implementation plan in a manner that will achieve the necessary reductions by December 31, 1991, the Administrator of the Environmental Protection Agency is directed to develop suitable plan amendments that will result in the emission reduction being met. After initially approving a State's plan amendments, the Administrator is periodically required to review a State's plan to determine if the amendments remain appropriate for meeting the State's emission reduction requirement. In addition, if a State fails to enforce its plan amendments the Administrator is directed to take enforcement action, including applying any sanctions against or limitations on emissions from large powerplants.

This bill take a targeted yet flexible approach toward controlling the major cause of acid precipitation, sulfur dioxide emissions. Large emissions reductions can be achieved in the most cost-effective manner. States are given the leading role in devising emission reduction schemes, yet the Environmental Protection Agency is given a substantial review and enforcement role to exercise when necessary. Finally the control program contained in this bill easily fits into the structure of the current Clean Air Act.

Mr. President, my distinguished colleague the Senator from Maine today introduced a bill, which I intended to co-sponsor, that also provides for a major

reduction in annual sulfur dioxide emissions in the Eastern United States. Critical issues often bring forth multiple pieces of legislation. Our bills have some differences but their overriding objective is the same, a major reduction in sulfur dioxide emissions.

I commend my colleague for his initiative, as always he displays excellent judgment and a keen understanding of those matters that are truly important in this Nation. He is a wise and patient man and as a fellow member of the Environment and Public Works Committee I am honored to join him in a unified effort to secure passage of legislation to control the problem of acid rain.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the Record.

Without objection, the text of the bill and the section-by-section analysis were ordered to be printed in the RECORD, as follows:

S. 1709

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 "Acid Precipitation Control Act of 1981".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

(1) manmade sulfur dioxide and nitrogen oxide emissions are known to be precursors of acid precipitation;

(2) sulfur dioxide and nitrogen oxide emissions are being transported through the atmosphere and deposited in both dry and wet forms in areas far from the original source of the emissions;

(3) current provisions of the Clean Air Act are not adequate to address the problem of acid precipitation; and

(4) acid precipitation—

(A) is responsible for the elimination of aquatic life in hundreds of lakes in the United States and thousands of lakes in Canada;

(B) contributes to the increasing levels of heavy metal concentration in public reservoirs and water distribution systems that often exceed recommended standards for human health;

(C) is known to cause the corrosion of metals and erosion of buildings and statutes made of calcareous rock resulting in substantial economic losses;

(D) can cause a retardation of a wide variety of forest growth;

(E) can cause adverse changes in the growth and development of crops;

(F) is likely to accelerate the processes of plant nutrient leaching from soil; and

(G) is an interstate and international problem.

IMPLEMENTATION PLANS

SEC. 3. Section 110(a)(2)(J) of the Clean Air Act is amended by inserting before the semicolon at the end thereof the following: ", and part E of this title (relating to acid precipitation control)".

ACID PRECIPITATION CONTROL PROGRAM

SEC. 4. Title I of the Clean Air Act is amended by adding at the end thereof the following new part:

"Part E—Acid Precipitation Control

"PURPOSES

"Sec. 181. The purposes of this part are—

"(1) to control acid precipitation by significantly reducing the precursor emissions of sulfur dioxide and nitrogen oxide from manmade sources;

"(2) to mitigate or prevent adverse ecological impacts and economic losses resulting from acid precipitation; and

"(3) to reduce the transport of air pollutants across international boundaries.

"DEFINITIONS

"Sec. 182. For the purposes of this part—

"(1) the term 'acid precipitation mitigation region' means the region consisting of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Delaware, Maryland, the District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, and Louisiana;

"(2) the term 'major stationary source' has the same meaning as defined in section 302(j);

"(3) the term 'major emitting powerplant' means a fossil-fuel fired electric powerplant which—

"(A) had total 1980 annual sulfur dioxide emissions exceeding 50,000 tons; and

"(B) had a 1980 annual sulfur dioxide emissions rate that exceeded three pounds;

"(4) the term 'sulfur dioxide emissions rate' means the number of pounds of sulfur dioxide emitted per million British thermal units of energy output; and

"(5) the term 'statewide utility sulfur dioxide emissions rate' means the number of pounds of sulfur dioxide emitted from all utility owned fossil-fuel fired electric powerplants having a generating capacity greater than one megawatt within a State per million British thermal units of energy output from all such powerplants.

"EMISSIONS REDUCTION REQUIREMENTS

"Sec. 183. (a) (1) Except as otherwise provided in paragraph (2), each State in the acid precipitation mitigation region shall be required to reduce, prior to December 31, 1991, sulfur dioxide emissions from all major stationary sources, as determined for the base year under subsection (b), by an amount equal to 85 percent of the actual 1980 sulfur dioxide emissions from all major emitting powerplants within such states, but disregarding any emissions from a separate generating unit or units of such powerplants that are subject to the provisions of section 111 of this Act.

"(2) The amount of the reduction in sulfur dioxide emissions required under this subsection for any State shall not exceed—

"(A) in the case of any State having a 1980 annual statewide utility sulfur dioxide emissions rate equal to or less than two pounds, an amount equal to 50 percent of the base year sulfur dioxide emissions (as determined under subsection (b)) from all fossil-fuel fired electric powerplants having a generating capacity greater than one megawatt in such State; or

"(B) in the case of any State having a 1980 annual statewide utility sulfur dioxide emissions rate of more than two pounds, an amount equal to 75 percent of the base year sulfur dioxide emissions (as determined under subsection (b)) from all fossil-fuel fired electric powerplants having a generating capacity greater than one megawatt in such State.

"(b) For purposes of subsection (a), the base year emissions for major stationary sources and the base year emissions for any powerplant or group of powerplants shall be equal to the total actual annual amount of sulfur dioxide emissions in 1980 from any such major stationary source, from any such powerplant, or from any separate generating unit of such a stationary source or powerplant, which was in operation at any time during the calendar year 1980, but disregarding any such emissions which were in excess of the allowable emissions under the provisions of section 110 (a) (2) (B) or section 111 of this Act.

"(c) The Administrator shall, within 60 days after the date of the enactment of this

part, identify each major emitting powerplant within the acid precipitation mitigation region, using the best available data and methodology to determine the total actual 1980 sulfur dioxide emissions and the actual 1980 sulfur dioxide emissions rate for each major emitting powerplant.

"(d) The Administrator shall, within 90 days after the date of the enactment of this part, establish a sulfur dioxide emissions reduction requirement pursuant to subsection (a) for each State in the acid precipitation mitigation region, and shall, within 120 days after the date of the enactment of this part, notify each State in such region of its sulfur dioxide emissions reduction requirement.

"PLAN REQUIREMENTS

"Sec. 184. (a) Each applicable State implementation plan shall, within one year after the date of the enactment of this part, be amended so as to contain emissions limitations, schedules, and timetables for compliance with such limitations, or such other enforceable measures as may be necessary for meeting the sulfur dioxide emissions reduction requirement specified under section 183 by December 31, 1991. Such other measures may include, but are not limited to, the trading of emissions offsets within the acid precipitation mitigation region, early retirement of sources, and energy conservation.

"(b) In meeting its total sulfur dioxide emissions reduction requirement, a State may substitute a reduction in nitrogen oxide emissions for a reduction in sulfur dioxide emissions, in a ratio of two parts nitrogen oxide to one part sulfur dioxide.

"(c) (1) In meeting its emissions reduction requirement by December 31, 1991, no State shall be allowed to include any reduction in emissions from any major stationary source, or separate generating unit thereof, which was in operation before December 31, 1980, to the extent that such reduction represents compliance with Federal emission standards other than those imposed under this part.

"(2) In meeting such requirement by December 31, 1991, a State may include any reduction in emissions from a major stationary source, or separate generating unit thereof, which was not in operation before December 31, 1980, to the extent that such reduction is greater than the reduction required under Federal emission standards other than standards imposed under this part.

"AUTHORITY OF THE ADMINISTRATOR

"Sec. 185. (a) (1) The Administrator shall, within 90 days after submission of all plan amendments pursuant to section 184, review each applicable State implementation plan and make a finding as to whether the plan amendments will insure that a State's sulfur dioxide emissions reduction requirement will be met by December 31, 1991. The Administrator shall approve any such plan amendments or parts thereof which he determines will insure that such emission reduction requirement will be met by December 31, 1991.

"(2) If the Administrator finds, pursuant to paragraph (1), that a State's plan amendments or parts thereof submitted pursuant to section 184 will not insure that such State's sulfur dioxide emissions reduction requirement will be met by December 31, 1991, the Administrator shall promptly, but in no event later than 6 months after making such a finding, prepare and publish revisions to such State's implementation plan setting forth emission limitations, schedules, and timetables for compliance with such limitations, or other such measures (as described in section 184 (a)) as may be necessary to insure that such State's sulfur dioxide emissions reduction requirement will be met by December 31, 1991.

"(b) (1) The Administrator shall periodically, but not less often than every three years after approval of an amendment to a

State implementation plan under subsection (a), review each such plan and make a finding as to whether such plan continues to insure that such emissions reduction requirement will be met by December 1, 1991.

"(2) If the Administrator finds, pursuant to paragraph (1), that a State implementation plan no longer insures that such emissions reduction requirement will be met by December 31, 1991, the Administrator shall take actions to insure compliance in the same manner as provided in subsection (a)(2).

"(c) If, at any time, the Administrator determines that a State is not carrying out its State implementation plan in a manner which insures that such emissions reduction requirement will be met by December 31, 1991, the Administrator shall, in addition to any other penalties or enforcement proceedings authorized under this Act, apply such additional sanctions or limitations on emissions with respect to any major emitting powerplant in such State as the Administrator determines to be necessary to insure that such requirement will be met by December 31, 1991."

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title of the bill, "The Acid Precipitation Control Act of 1981."

FINDINGS

Section 2 contains the findings of Congress that sulfur dioxide and nitrogen oxide emissions are precursors of acid precipitation, that such emissions are being transported long distances through the atmosphere resulting in sulfate and nitrate deposition far from the original source of the emissions and that current provisions in the Clean Air Act are not adequate to address the problem of acid precipitation. There are further findings that acid precipitation: is responsible for the elimination of aquatic life in lakes in the U.S. and Canada; contributes to increasing the levels of heavy metal concentration in public reservoirs and water distribution systems beyond recommended standards for human health; is known to cause the corrosion of metals and erosion of buildings and statues made of calcareous rock; can cause retardation of a wide variety of forest growth; can cause adverse changes in the growth and development of crops; is likely to accelerate the processes of plant nutrient leaching from soil; and is an interstate and international problem.

IMPLEMENTATION PLANS

Section 3 amends the Clean Air Act to incorporate the acid precipitation control program, established by the new Part E of Title I, into the state implementation plan development and review process.

ACID PRECIPITATION CONTROL PROGRAM

Section 4 amends Title I of the Clean Air Act by adding a new Part E entitled "Acid Precipitation Control." Part E contains sections 181 through 185.

Section 181 contains the purposes of Part E. These are: to control acid precipitation by significantly reducing the precursor emissions of sulfur dioxide and nitrogen oxide; to mitigate or prevent adverse ecological impacts and economic losses resulting from acid precipitation; and to reduce the transport of air pollutants across international boundaries.

Definitions

Section 182 contains the following definitions used in Part E:

- (1) acid rain mitigation region;
- (2) major stationary source;
- (3) major emitting powerplant;
- (4) sulfur dioxide emissions rate; and
- (5) state-wide utility sulfur dioxide emissions rate.

Reduction requirements

Section 183 requires states in the acid rain mitigation region (the 31 states bordering on

or east of the Mississippi River, and the District of Columbia) to reduce annual sulfur dioxide emissions by a specified number of tons by December 31, 1991.

Under Section 183(a) each state in the acid rain mitigation (ARM) region is required to reduce its base year sulfur dioxide emissions from all major stationary sources by December 31, 1991 by an amount equal to 85 percent of the actual 1980 sulfur dioxide emissions from all major emitting powerplants within such state. (Major emitting powerplants are defined as those having total 1980 annual sulfur dioxide emissions exceeding 50,000 tons and a 1980 sulfur dioxide emissions rate exceeding 3 pounds per million British thermal units of output.) The intent is to target the emissions reduction requirements to states having the major sources of sulfur dioxide pollution in 1980.

However, any emissions from a separate generating unit or units of a major emitting powerplant that are subject to new source performance standards under Section 111 of this Act are excluded from the calculation of actual 1980 sulfur dioxide emissions for the purpose of establishing each State's sulfur dioxide emissions reduction requirement. The intent of this provision is to recognize the fact that generating units currently in the process of complying with new source performance standards are already making a significant contribution toward reducing sulfur dioxide emissions.

Furthermore, there is a maximum amount of emissions reduction that any state is required to meet. The intent is to avoid an excess burden being placed on any particular state. For states with 1980 annual average state-wide utility emissions rates equal to or less than 2 pounds, a reduction of no more than 50 percent of all base year sulfur dioxide emissions from all fossil fuel fired electric powerplants with a generating capacity of greater than one megawatt is required. For states with 1980 annual average state-wide utility emissions rates greater than 2 pounds, a reduction of no more than 75 percent of all base year sulfur dioxide emissions from all fossil fuel fired electric powerplants with a generating capacity of greater than one megawatt is required. (Average state-wide utility emission rates are defined as the amount of sulfur dioxide from all fossil fuel fired electric powerplants, with a generating capacity greater than one, emitted per million British thermal units of energy output from all such powerplants.

Section 183(b) defines base year emissions for all major stationary sources and base year emissions for all powerplants or group of powerplants. Base year emissions are equal to the total annual amount of sulfur dioxide emissions in 1980 from any major stationary source or powerplant, or separate generating unit of such stationary source or powerplant, that was in operation at any time during the calendar year 1980. In calculating base year emissions, however, emissions in excess of those allowed under state implementation plans and new source performance standards enforced during 1980 shall not be included. The intent is to make base year emissions the equivalent of allowable emissions.

Section 183(c) directs the Administrator of the Environmental Protection Agency to identify each major emitting powerplant within the ARM region within 60 days after the date of the bill's enactment. In so doing, the actual 1980 annual sulfur dioxide emissions for each major emitting powerplant and the actual 1980 annual sulfur dioxide emissions rate for each major emitting powerplant must be determined by the Administrator using the best available data and methodological techniques.

Section 183(d) requires the Administrator to calculate a sulfur dioxide emissions reduction requirement for each state in the ARM region for which it is appropriate within 90 days after the bill is enacted and to

notify each state of such requirement within 120 days after the bill is enacted.

Plan requirements

Section 184 mandates that each state to which the Administrator assigns an emissions reduction requirement revise its state implementation plan to include specific measures to meet its emission reduction requirement by December 31, 1991. The intent is to give the states the ability and flexibility to develop their own program for reducing sulfur dioxide emissions by the amount specified. This allows states to coordinate the acid precipitation control program with their general efforts to meet national ambient air quality standards and other provisions of the Clean Air Act.

Section 184(a) requires that within one year after the enactment of this bill each applicable state implementation plan be revised to contain emissions limitations, schedules and timetables for compliance with such limitations, or such other enforceable measures as may be necessary for meeting a state's sulfur dioxide emissions reduction requirement by December 31, 1991. Other enforceable measures include, but are not limited to, the trading of emissions offsets within the acid rain mitigation region, early retirement of sources, and energy conservation. The intent is to give states maximum flexibility in devising programs to meet their emissions reduction requirements anywhere within state borders and beyond. In particular, the ability to trade emissions offsets between states should result in a least cost approach to meeting overall sulfur dioxide emissions reductions within the acid rain mitigation region.

Section 184(b) provides states with the ability to substitute a reduction in nitrogen oxide emissions for a reduction in sulfur dioxide emissions. Studies have found that acid rain usually contains about two parts of sulfuric acid for each part of nitric acid. Therefore, substituting a reduction in two units of nitrogen oxide emissions for each unit of sulfur dioxide emissions is permitted.

Section 184(c) provides that in meeting their emissions reduction requirements by December 31, 1991 states may not count reductions in sulfur dioxide emissions from any source that result from meeting requirements contained in other provisions of the Clean Air Act. The intent is that the emissions reduction requirement provided for under the acid precipitation control program be accomplished over and above emissions reductions that represent compliance with other federal air pollution standards. However, a state may get credit toward its sulfur dioxide emissions reduction requirement for emissions reductions that are in excess of whatever is required under other provisions contained in the Clean Air Act at sources put into operation after December 31, 1980.

Authority of the Administrator

Section 185 requires the Administrator of the Environmental Protection Agency to insure that each state's revisions to its implementation plan are adequate to meet emissions reduction requirements by December 31, 1991. If a state fails to develop satisfactory plan revisions the Administrator must put enforce plan revisions capable of meeting a state's emissions reduction requirement by December 31, 1991. If a state fails to carry out its plan revisions the Administrator is directed to take selective enforcement action against the major emitting powerplants.

Section 185(a) provides that the Administrator initially review, within 90 days after submission, each state's proposed revisions to its implementation plan made pursuant to Section 184 to determine if such revisions will enable a state to meet its emissions reduction requirement by December 31, 1991. The Administrator is directed to approve any

proposed revisions, or portion thereof, that will in the Administrator's judgment insure or help to insure that a state will meet its emissions reduction requirement by December 31, 1991. If the Administrator finds that a state's proposed plan revisions, or any portion thereof, are not adequate to insure that the state's emissions reduction requirement is met by December 31, 1991, the Administrator is within six months after making such a finding required to prepare and publish revisions to such state's implementation plan setting forth emission limitations, schedules and timetables for compliance with such limitations or other such measures as necessary to meet such state's emissions reduction requirement.

Section 185(b) requires that the Administrator repeat the process of review and finding periodically, but in event less than every three years after approval of revisions to a state's implementation plan, to determine if a state's implementation plan continues to insure that such state's emissions reduction requirement will be met by December 31, 1991. If there is a negative finding the Administrator is required to make such revisions to the state's implementation plan as are necessary to insure that its emissions reduction requirement is met by December 31, 1991.

Section 185(c) requires the Administrator to take action if (s) he finds that a state is not carrying out its implementation plan revisions. The Administrator must, in addition to any other penalties or enforcement proceedings authorized under the Clean Air Act, apply such sanctions or limitations on emissions with respect to any major emitting powerplant in such state as the Administrator determines to be necessary to insure that the state's sulfur dioxide emissions reduction requirement will be met by December 31, 1991.●

By Mr. HATCH:

S.J. Res. 113. Joint resolution to designate the week beginning November 8, 1981, as "National Home Health Care Week"; to the Committee on the Judiciary.

NATIONAL HOME HEALTH CARE WEEK

● Mr. HATCH. Mr. President, our country is now facing a crisis of major proportions, one built on the steadily growing population of older Americans in need of both chronic and acute long-term health care. Back in 1900, 1 in every 25 Americans was 65 years or over. Today, the proportion is 1 in 10. By the turn of this century, in the year 2000, it promises to be 1 in 8.

Meanwhile, it is becoming more evident every day that our Nation cannot depend on nursing homes and institutionalized hospital care alone. To provide care for our elderly and infirm friends and family members, new and innovative arrangements have been in the past and are now being devised. All of these are in one way or another based on the concept of home health care.

Home health care organizations and programs, whether proprietary or non-profit, and whether or not they are hospital-based, have shown that they can provide quality, cost-effective care. Most important of all, they help older people remain in their own homes or apartments, where they often desperately wish to stay.

On January 22 of this year, I introduced S. 234, the Community Home

Health Services Act of 1981, and scheduled our first hearing on the bill on March 4. A final hearing will be held in the Senate Labor and Human Resources Committee on November 10.

Since our first hearing, many of the most prominent health service organizations in our country have endorsed S. 234, a partial list of which includes the National Multiple Sclerosis Society; the U.S. Catholic Health Association; the American Cancer Society; San Francisco Home Health Services, Inc.; the American Dietetic Association; the American Hospital Association; the National Association of Home Health Agencies; the National Home Care Council; the Council of Home Health Agencies and Community Health Services of the National League of Nursing; the Home Health Services and Staffing Association; the American Federation of Home Health Agencies; and the American Association of Respiratory Therapy.

The Government Accounting Office, based on my original request, is just now completing their comprehensive study of the cost impact and an economic analysis of S. 234, results we will have fully aired at our forthcoming November 10 hearing.

My purpose in speaking today, however, is less to make yet another case for my own home health care approach as I have incorporated in S. 234, then to seek a general show of legislative intent for the home health care idea. This is why I solicit the support of my colleagues for a sense of the Senate resolution I am today introducing, designating the week of November 8, "National Home Health Care Week."

Two of our friends and distinguished colleagues on the House side, Congressmen PANETTA and CONABLE, earlier sponsored similar legislation in the House. I am fully aware that the Post Office and Civil Service Committee already has more days of celebration and specially designated weeks than the Federal Government can possibly keep track of. Yet I can think of few causes more worthy, few which stem from a greater need for attention and encouragement than the movement to raise our national community consciousness about the need for home health care.

I solicit the support of my colleagues for this resolution, and I respectfully request the President and the majority and minority leaders for their considerable assistance in granting this legislation the very earliest action.

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

S.J. RES. 113

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity

and independence of the individual receiving these services;

Whereas since the enactment of the medicare program including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than three thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 8, 1981, hereby is designated "National Home Health Care Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 1394

At the request of Mr. DeCONCINI, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 1394, a bill to improve the ability of the Secret Service to protect the President and other designated protectees.

S. 1648

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1648, a bill entitled the "Military Spouse Retirement Equity Act."

S. 1697

At the request of Mr. HELMS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1697, a bill to temporarily delay the October 1, 1981, increase in the price support level for milk and to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. HOLLINGS, the Senator from California (Mr. HAYAKAWA), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of Senate Concurrent Resolution 29, a concurrent resolution disapproving certain coastal zone management Federal consistency regulations.

SENATE RESOLUTION 222—ORIGINAL RESOLUTION TO AUTHORIZE SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 222

Resolved, That section 2 of the Senate Resolution 53, Ninety-seventh Congress, agreed to March 3 (legislative day, February 16), 1981, is amended by striking out

the amounts "\$4,272,722" and "\$172,490" and inserting in lieu thereof "\$4,425,590" and "\$179,990", respectively.

AMENDMENTS SUBMITTED FOR PRINTING

RESTORATION OF MINIMUM SOCIAL SECURITY BENEFITS

AMENDMENT NO. 581

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 4331) to amend the Omnibus Reconciliation Act of 1981 to restore minimum social security benefits under the Social Security Act.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Senate Small Business Committee will hold a full committee field hearing in Hartford, Conn., on October 13, 1981. The hearing will convene at 9 a.m., in the senate chambers of the State capitol. Senator WEICKER will chair.

This hearing will be a continuation of the committee's examination of the problem of high interest rates and their effects on the economy.

For additional information contact Jim O'Connell of the committee staff at 224-5175.

Mr. President, I would like to announce for the information of the Senate and the public that the Senate Small Business Committee will hold a full committee field hearing in New York City on October 14, 1981. The hearing will convene at 10 a.m., in the Rotunda Room, Federal Hall, 26 Wall Street, New York, N.Y. Senator WEICKER will chair.

This hearing will be a continuation of the committee's examination of the problem of high interest rates and their effects on the economy.

For additional information contact Jim O'Connell of the committee staff at 224-5175.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, I wish to announce that Chairman Philip Johnson of the Commodity Futures Trading Commission will brief the Senate Agriculture Subcommittee on Agricultural Research and General Legislation on the CFTC's pilot program in options trading in nonagricultural commodities. Chairman Johnson will also brief the subcommittee on the National Futures Association.

The briefing will be held on Wednesday, October 14 and will begin at 10 a.m. in room 324, Russell Building.

Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.

ADDITIONAL STATEMENTS

WHERE TO SEND COMPLAINTS ABOUT FEDERAL PAPERWORK

● Mr. DANFORTH. Mr. President, the Paperwork Reduction Act, Public Law 96-511, requires each Federal agency to assign a single senior official to be responsible for the paperwork generated by the agency. With these designations, anyone who has a complaint or concern about the forms produced by an agency knows where to send the complaint.

The Office of Management and Budget has recently provided my office with the complete list of agency officials responsible for the paperwork in their agencies. In order to share that information with the public, I ask that that list be printed at this point in the RECORD.

The list follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 25, 1981.

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on Federal Expenditures, Research and Rules, Governmental Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: Public Law 96-511, the Paperwork Reduction Act of 1980 requires that each agency head designate a senior official (or in the case of the military departments, officials) to be responsible for the agency's information management activities.

Subsequently, OMB requested agencies to advise us of those designations. Enclosed for your information is a copy of our most current list of agency senior information management officials. We will provide updates of that list directly to your staff and look forward to working with you in the implementation of the Paperwork Reduction Act.

Sincerely yours,

JAMES C. MILLER III,
Administrator for Information
and Regulatory Affairs.

SINGLE OFFICIAL LIST

Mr. Mark Blitz, Director of the Office of Policy and Planning, ACTION, 806 Connecticut Avenue, N.W., Washington, D.C. 20503, 254-7630.

Mr. Frank L. Suman, Administrative Officer, Advisory Council on Historic Preservation, 1522 K Street, N.W., Washington, D.C. 20005, 254-3967.

Mr. John F. Owens, Acting Assistant Administrator, Agency for International Development, 320 21st Street, N.W., Washington, D.C. 20523, 632-9890.

Mr. Michael D. Sherwin, Acting Managing Director, Civil Aeronautics Board, Washington, D.C. 20428, 673-5980.

Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, 708 Jackson Place, N.W., Washington, D.C. 20006, 566-1066.

Dr. Eugene Mornell, Assistant Staff Director for Program Planning and Evaluation, Commission on Civil Rights, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, 254-6644.

Mr. Charles W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North Arlington, VA 22201, 557-1145.

Ms. Susan W. Wagner, Executive Director, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 254-3350.

Mr. James B. Lancaster, Jr., Acting Assistant Director for Management, Community Services Administration, 1200 19th Street, N.W., Washington, D.C. 20506, 254-5330.

Honorable R. David Pittle, Acting Chairman, Consumer Product Safety Commission,

1111 18th Street, N.W., Washington, D.C. 20207, 634-7726.

Mr. Raymond D. Iett, Executive Assistant to the Secretary, Department of Agriculture, 14th and Independence, S.W., Washington, D.C. 20250, 447-5538.

Honorable Arlene Triplett, Assistant Secretary for Administration, Department of Commerce, Washington, D.C. 20230, 377-4951.

Honorable Jack R. Borsting, Assistant Secretary of Defense (Comptroller), Department of Defense, Washington, D.C. 20301.

Mr. Kent Lloyd, Deputy Secretary for Management, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, 245-8703.

Honorable William S. Heffelfinger, Assistant Secretary for Management and Administration, Department of Energy, Washington, D.C. 20585, 252-5940.

Honorable Dale W. Sopper, Assistant Secretary for Management and Budget, Department of Health and Human Services, Washington, D.C. 20201, 245-6396.

Honorable Judith L. Tardy, Assistant Secretary for Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 755-6040.

Mr. Richard L. DeHaan, Director of the Systems Policy and Planning Staff, Department of Justice, Washington, D.C. 20530, 633-4292.

Honorable Alfred M. Zuck, Assistant Secretary for Administration and Management, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 523-9086.

Honorable Thomas M. Tracy, Assistant Secretary for Administration, Department of State, Washington, D.C. 20520, 632-1492.

Honorable Russell D. Hale, Assistant Secretary of the Air Force for Financial Management, Department of the Air Force, Washington, D.C. 20330.

Honorable Joel E. Bonner, Jr., Assistant Secretary of the Army for Installations Logistics and Financial Management, Department of the Army, Washington, D.C. 20310, 635-2254.

Honorable J. Robinson West, Assistant Secretary for Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240, 343-6181.

Honorable Robert H. Conn, Deputy Undersecretary of the Navy, Department of the Navy, Washington, D.C. 20350, 697-2325.

Honorable Cora P. Beebe, Assistant Secretary of Administration, Department of the Treasury, Washington, D.C. 20220, 566-5391.

Honorable Robert L. Fairman, Assistant Secretary for Administration, Department of Transportation, Washington, D.C. 20590, 426-2332.

Mr. Nolan E. Clark, Associate Administrator for Policy and Resource Management, Environmental Protection Agency, Washington, D.C. 20460, 755-2900.

Ms. Issie Jenkins, Acting Executive Director, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, 634-6814.

Mr. Adrian B. Wainwright, Vice President-Administration, Export-Import Bank of the United States, 811 Vermont Avenue, N.W., Washington, D.C. 20571, 566-8111.

Mr. Larry H. Bacon, Deputy Governor, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578, 755-2181.

Mr. Richard D. Lichtwardt, Executive Director, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20544, 632-6390.

Ms. Margaret L. Egginton, Deputy to the Chairman—Public Affairs, Federal Deposit Insurance Corporation, 557 17th Street, N.W., Washington, D.C. 20429, 389-4211.

Mr. Robert C. Goffus, Acting Associate Director for Resource Management and Administration, Federal Emergency Manage-

ment Agency, 1725 Eye Street, N.W., Washington, D.C. 20472, 653-7803.

Mr. William G. McDonald, Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, 357-8300.

Mr. John S. Buchanan, Executive Staff Director, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

Mr. Lawrence G. Pedersen, Deputy Director for Finance and Administration, Federal Labor Relations Authority, 1900 E Street, N.W., Washington, D.C. 20424, 634-7925.

Mr. James K. Cooper, Managing Director, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, 523-5800.

Mr. Danny W. Funkhouser, Assistant Director of Administration for Administrative Services, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427, 653-5310.

Mr. Robert J. Phares, Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Washington, D.C. 20006.

Governor Emmett J. Rice, Member of the Board of Governors, Federal Reserve System, 20th & Constitution Avenue, N.W., Washington, D.C. 20551, 452-3285.

Mr. Christian S. White, Executive Director, Federal Trade Commission, Washington, D.C. 20580, 523-3740.

Mr. Robert L. Maddex, Supervisory Attorney, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579, 653-5883.

Honorable Ray Kline, Deputy Administrator of General Services, General Services Administration, Washington, D.C. 20405, 566-1226.

Mr. Malcolm C. McCormack, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, D.C. 20006, 395-4831.

Mr. Leon M. Parker, Executive Officer, Inter-American Foundation, 1515 Wilson Boulevard, Rosslyn, VA 22209, 841-3870.

Mr. James Hackett, Associate Director for Management, International Communications Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547, 724-9136.

Mr. William R. Johnson, Managing Director, Interstate Commerce Commission, Washington, D.C. 20423, 275-7480.

Mr. Richard Redenius, Managing Director, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419, 653-6842.

Mr. E. C. Kilgore, Associate Administrator for Management Operations, National Aeronautics and Space Administration, Washington, D.C. 20546.

Mr. Malcolm L. Trevor, Assistant Executive Director for Administration, National Capital Planning Commission, Washington, D.C. 20576, 724-0187.

Dr. Toni Carbo Bearman, Executive Director, National Commission on Libraries and Information Science, 1717 K Street, N.W., Washington, D.C. 20036, 653-6252.

Mr. William H. Russell, Director, Office of Administration, National Credit Union Administration, Washington, D.C. 20456, 357-1235.

Mr. Nicholas C. Maravell, Acting Director of Administration, National Endowment for the Arts, Washington, D.C. 20506, 634-6365.

Mr. John Whitelaw, Deputy Chairman for Management, National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506, 724-0650.

Mr. Rowland K. Quinn, Executive Secretary, National Mediation Board, 1425 K Street, N.W., Washington, D.C. 20572, 523-5950.

Mr. Thomas Ubois, Assistant Director for Administration, National Science Foundation, Washington, D.C. 20550, 357-9482.

Mr. B. Michael Levins, Director, Bureau of Administration, National Transportation Safety Board, Washington, D.C. 20594, 472-6111.

Mr. Daniel J. Donoghue, Director, Office of Administration, Nuclear Regulatory Commission, Washington, D.C. 20565, 492-7335.

Ms. Sarah T. Kadec, Deputy Director, Office of Administration, Washington, D.C. 20500, 456-2804.

Ms. Linda L. Smith, Assistant Director for Administration, Office of Management and Budget, Washington, D.C. 20503.

Ms. Ann Brassler, Director, Office of Management, Office of Personnel Management, Washington, D.C. 20415, 632-6161.

Mr. John P. Giacomini, Director-Management, Office of the United States Trade Representative, Washington, D.C. 20506, 335-5123.

Mr. K. E. Goldsberry, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011, 52-7757.

Dr. Nancy Kingsbury, Director, Office of Personnel and Management, PEACE Corps, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, 254-7394.

Mr. Robert E. Geiger, Director, Office of Management Services, Pension Benefit Guaranty Corporation, Washington, D.C. 20006, 254-4776.

Mr. David F. Harris, Secretary, Postal Rate Commission, Washington, D.C. 20268, 254-3880.

Mr. William A. Oczkowski, Assistant Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Ill. 60611.

Mr. George G. Kundahl, Deputy Executive Director, Securities and Exchange Commission, Washington, D.C. 20459, 272-2142.

Mr. David A. Cox, Associate Director for Management Information Systems, Selective Service System, Washington, D.C. 20435, 724-0872.

Mr. Roger H. Jones, Assistant Administrator for Administration, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 653-6805.

Colonel William E. Ryan, Jr., Director, Operations and Finance, The American Battle Monuments Commission, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314, 275-0536.

Mr. Walter C. DeVaughan, Assistant Public Printer for Management and Administration, U.S. Government Printing Office, Washington, D.C. 20401, 275-3400.

Mr. Charles W. Ervin, Director of Operations, U.S. International Trade Commission, Washington, D.C. 20436, 523-4463.

Mr. John Frost, Acting Assistant Director for Operations, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

Mrs. Elizabeth Burkhardt, Special Assistant to the Administrator, Veterans Administration, Washington, D.C. 20420, 389-3116. ●

THE HONORABLE EDMUND MUSKIE ON "HUMAN RIGHTS POLICY: THE CASE FOR CONTINUITY"

● Mr. CRANSTON. Mr. President, I wish to commend to my colleagues an excellent and timely speech recently given by Ed Muskie. As a respected and distinguished Member of this body for many years and as an effective former Secretary of State, Ed Muskie has devoted much of his time and energies to the cause of human rights. The speech he recently delivered at Gallaudet College is entitled, "Human Rights Policy: The Case for Continuity." He spoke with experience and with conviction on the meaning of human rights to Americans—their central place in our history and in our foreign policy. Indeed, he reminds us that "the idea of human rights has a global meaning as old as our Republic. It is embedded in our history. It is established in our practice of diplomacy. It is explicit in our statute law."

I fully agree with Ed Muskie that as the first nation born in the name of human freedom and of human rights that we must not ignore such basic rights for all and that there must be continuity in our efforts to encourage nations around the world to respect human rights. Ed Muskie states this case with his characteristic eloquence. I ask that the full text of his speech be inserted in the RECORD at this time.

The remarks follow:

"HUMAN RIGHTS POLICY: THE CASE FOR CONTINUITY"

I.

We are told in Scripture that when Moses, in the wilderness, encountered God in the form of a burning bush, he was admonished: "Take off thy shoes, for this is holy ground."

Perhaps we should all make a similar gesture tonight: For surely this place is hallowed ground—hallowed by history, and hallowed by its purpose.

Consider its history. It was Abraham Lincoln who signed the legislation chartering Gallaudet College. For 125 years, Gallaudet has grown in stature, influence, and effectiveness—until today, it is not only a national resource, but an institution of importance in the world.

And consider its purpose. This college—this university—is dedicated to a proposition that we identify with Lincoln and indeed with America: The proposition that all human potential is precious; that no arbitrary barrier should stand between a person and the fulfillment of that potential. Because of its dedication to that principle, this college deserves—perhaps more than others—to be called a liberating institution.

How appropriate it is, then, that we should gather here to commemorate Lincoln the man, and the animating idea of his political career: To preserve America as a union "conceived in Liberty, and dedicated to the proposition that all men are created equal."

I am honored to deliver the first Lincoln lecture on Liberty and Equality. And I have chosen to explore tonight the meaning of these American ideas as they apply to American foreign policy.

A few years ago, in a toast he delivered at the White House in President Kennedy's Administration, the French philosopher Andre Malraux observed that America was the first nation on Earth consciously organized around an idea. That idea, of course, was the idea of human freedom: The idea of unfettered individual expression, of respect for the sanctity of the individual; the idea of full play for the citizen's fundamental rights.

That idea, of course, remains basic to our political union. It is what makes America the wellspring of the world's contemporary human liberation movements, from the civil rights movement to the crusade for women's rights.

That idea of human freedom, in my judgment, should also be one of the motivating forces of our nation's foreign policy. So tonight I want to talk briefly about the foreign policy of human rights.

The subject is not only challenging, but timely. For the issue of support for human rights in foreign policy has generated, in recent months, intense controversy, considerable misunderstanding—and some dramatic shifts in direction.

After an Administration which sought, however imperfectly, to make support for human rights an explicit theme of foreign policy, the pendulum has abruptly swung. We have been told by our new Secretary of State that "international terrorism will take the place of human rights in our concern because it is the ultimate abuse of human rights."

Now, no one can gainsay that concern for international terrorism is important. But I would suggest that it should accompany, not replace, support for human rights. And I am concerned lest the idea spring up that American support for human rights is somehow optional—a sort of policy garment that we put on or take off as the political weather changes.

So tonight I want to explore with you the question of human rights and American foreign policy. How did the idea arise that America had a mission to support human rights? What have our policies and practices been in the past? What are they now? And what should they be in the future?

My hope is to suggest some common ground on which all of us—liberals and conservatives—may stand together.

II.

Let me begin by dispelling, as best I can, two misconceptions that have sprung up about human rights and American foreign policy.

The first is that there is something novel—something recent—about human rights as a theme of foreign policy. In fact, the idea that human rights has a global meaning is as old as our Republic. It is embedded in our history. It is established in our practice of diplomacy. It is explicit in our statute law.

It is interesting in this connection to consider the words our Founders used when they spoke and wrote about the new nation they hoped to conceive. Their words clearly suggest that they considered liberty and equality a gift of God to all persons—not just those who happened to reside in the rebellious colonies.

It is important to recall, for example, that Thomas Jefferson couched the language of the Declaration of Independence in universal, not local terms. He wrote, "When in the course of human events . . ." And later, ". . . that all men are created equal, and endowed by their Creator with certain inalienable rights . . ." All—not some.

In other pronouncements, also, it is abundantly clear that Jefferson and his colleagues saw themselves as launching a movement not just for national independence, but for universal human liberty. Their supporters abroad understood and shared their idea.

"I have sworn upon the altar of Almighty God," Jefferson wrote elsewhere, "eternal hostility against every form of tyranny over the mind of Man." It is difficult to conceive of words less circumscribed, more sweeping or universal, than these.

The scandal of chattel slavery in early America, under which a slave was defined as not a person, but one-fifth of a person, dims but does not erase the glory of the Founders' conception of human rights. When the institution of slavery was finally abolished, it was abolished in large part because people of conscience considered slavery inconsistent with the Founders' conception of human rights as universal and inalienable. The ideals of liberty and equality were betrayed for a time, but in the end they were a decisive force for change.

Almost a century after our Founding, when Lincoln spoke of "government of the people, by the people, for the people," he, too, spoke of it in global and universal terms. He was concerned that democratic government "should not perish from the earth"—not just that it should survive in America.

Similarly, when Franklin Roosevelt enunciated his famous Four Freedoms during World War II, he did so in terms that made clear their relevance to the world. And John F. Kennedy's inaugural address explicitly embraced an American mission to "ensure the survival and success of liberty."

Cynics may quibble. But I would argue that this concept of human rights as universal, which has given our nation over the years a distinct sense of mission in the world,

has been for the most part a positive force. It may have its dark underside of clumsy naivete and self-righteousness: Witness Vietnam and the Spanish-American war. But this sense of mission, based on a conception of universal human rights, also has an overriding, constructive, even noble, aspect: witness Point Four and the Marshall Plan.

So the idea of human rights as globally relevant is a theme in our history. It is also a feature of international instruments we have helped to shape over the years. The Universal Declaration of Human Rights, The United Nations, the Human Rights Commission of the Organization of American States—all these are legal instrumentalities to which we have been bound for at least a generation.

Finally, we Americans are bound to international support for human rights by our own laws: by Acts of Congress, not whims of this or that administration. These human rights laws commit us to support for the nurturing of democracy abroad; they articulate our commitment to respect and support international standards of human rights, and they require that in our own aid and trade policies, we actively discourage human rights violations committed in other nations.

Section 502(b) of the Foreign Assistance Act of 1961, as amended, for example, directly links United States arms aid decisions to human rights. The human rights provisions in this law evolved over a period of six years, from 1974 to 1980. Its history clearly demonstrates that a primary purpose of its passage was to discourage United States association with torture or repression by foreign governments.

Another statute, Section 701 of the International Financial Institutions Act of 1977, mandates that human rights must be an important criterion in our votes on multilateral loans which do not serve the basic human needs of a country. The law is explicit: The United States government, in connection with its voice and vote in the multilateral banks, shall—in the words of the law—"advance the cause of human rights . . . by seeking to channel assistance toward countries other than those whose governments engage in a consistent pattern of gross violations of internationally recognized human rights . . ."

It was largely on the basis of such laws, and not on the basis of transient political whim, that the Carter Administration institutionalized human rights as a major element of our foreign policy. It was in compliance with these laws that the Bureau of Human Rights and Humanitarian Affairs was established. It was in obedience to these laws that every American ambassador was instructed to report regularly on human rights conditions in the country to which he or she was posted. These laws gave rise to the State Department's annual country reports on human rights. And these laws made it inevitable that human rights would be placed squarely on the diplomatic table between the United States and other countries.

So let us lay to rest the notion that support for human rights is somehow temporary or optional. It is not. It is firmly justified by history and diplomatic practice; it is required by law. We may argue whether the laws are wise. We may argue whether they should remain upon the statute books. But surely no one—and surely no conservative—will argue that the laws should be ignored or disobeyed. Support for human rights is not a garment to be donned or shed at will; it is skin: something we must live within.

III.

Another misconception is equally pernicious. It is the notion that support for human rights, as an element of U.S. foreign policy, is a sort of moralistic luxury, unre-

lated to the pursuit of our basic national interests; that it is a *slae* issue, justifiable mainly on the idealistic or sentimental grounds, but not justifiable in terms of our national interests.

Those who fall victim to this misconception tend to feel that support for human rights is somehow "soft," rather than tough-minded, pragmatic and muscular. Indeed, the idea seems to have emerged that virtually any visible expression of support for human rights is dangerous to our interests: that it threatens to weaken our position in the world and to destabilize friendly governments.

I disagree. And I want to suggest, very briefly, several reasons why a policy of visible support for human rights—carefully pursued—is important to our national interest and security.

In 1977, Secretary of State Cyrus Vance set forth a careful definition of what our government meant by fundamental human rights. He divided those rights into three categories, which I will paraphrase as follows:

First, the right to be free from violations of the human person—torture, arbitrary arrest or imprisonment, summary execution and denial of due process;

Second, the right to fulfill vital economic needs such as food, shelter, education, and health care; and

Third, civil and political rights—freedom of thought, expression, assembly, travel, and participation in politics.

Such basic rights, as the American philosopher Henry Shue has reminded us, constitute "the moral minimum . . . the lower limits on tolerable human conduct." To define these rights describes, as Henry Shue reminds us, only the point at which "decent life starts."

I would argue that for our Nation to uphold this moral minimum in our foreign policy is not sentimental: it is essential.

I would argue, first, that a policy of visible support for human rights, consistently applied, serves our long-term interest in peace and stability.

There is, perhaps, a natural temptation to equate stability with the status quo. Yet experience has demonstrated that the opposite is often true. The heavy silence of repression may appear to be "stability"—but it is too often the ominous calm before a violent, revolutionary storm. In such storms of violence, American interests have often been damaged—and targets of opportunity created for the Soviet Union or other forces hostile to the United States.

I am convinced that by alleviating the sources of tension and discord before they erupt into violence, nations can help build real stability. And I am convinced that the United States, by encouraging this process, can help prevent damage to its long-term interests and can help remove the inviting target that social unrest presents for intervention by our foreign adversaries.

There are several cases I could cite as illustrations, but I need mention only one: Zimbabwe. There, a process of negotiation and a free election—which the United States unwaveringly supported—ended a violent civil war, gave new credibility to U.S. policy in Africa, and frustrated the hope of the Soviet Union to exploit racial violence to its own ends.

Certainly we should recognize that American support for democratic change in other countries is complex and risky. The dangers of destabilizing friendly governments are real ones, and we must never forget that mere good intentions do not constitute a foreign policy. But the alternatives can be equally risky for our security interests. Certainly we should be aware of the pitfalls of equating change with progress. But to equate the status quo with "stability" can be equally fraught with pitfalls.

Second, I am convinced that the United States will be more secure in a world where more governments respect the rights of their people.

I would argue that countries which respect human rights make stronger allies and better friends. Our allies in Western Europe, Japan, and some Latin American countries underscore this point. Because they strive to respect human rights, they have an inner strength and resilience that helps them stand with us against the challenges we face together. And to the extent that our other friends in the world commit themselves seriously to human rights, I believe they will gain the same kind of inner strength: strength which enhances their security and ours.

We should face squarely the fact that not all our friends and allies can meet our standards of democratic practice: that it will never be easy to combine our security assistance with human rights persuasion. But we should not abandon our efforts to combine the two.

Consider our dealings with Allies like South Korea and the Philippines, for example: nations whose friendship is important to our security, but whose governments fall far short on human rights issues. Such cases present some of the most difficult dilemmas in the practical application of a human rights policy. I believe we can amply justify our security assistance to such countries on the ground that it supports a basic human right: the right of their people to live in safety from external attack. But we must never fail to urge such governments to undertake internal reforms that will improve life for their people. For if we fail to encourage those reforms, our security assistance will look cynical at best. And it may ultimately prove not enough to defend those societies, for the ultimate security is the security that comes from within.

Third, I am convinced that our support for human rights can enhance the influence of the United States in important world arenas.

In essence, support for human rights can give us a way of emphasizing what we are for, not simply what we oppose. It can give us a way of taking the ideological initiative, instead of merely reacting. It gives us a rubric under which to organize our support for due process, economic progress and democratic principles.

I can attest, for example, from my own conversations with the President of Nigeria, that our visible support for human rights in Zimbabwe and southern Africa improved our standing on that continent.

Fourth, I am convinced that visible devotion to human rights can underscore the dramatic differences—differences of philosophy and behavior—between us and the Soviet Union.

We should uphold human rights fundamentally because to do so is right: Because to do so is consistent with our own ideals. But it is inescapable that human rights and closed societies are incompatible. The contrast between our system and the closed societies of our adversaries should be dramatically visible. The Soviets have always disliked and feared our emphasis on human rights, because they know what a powerful attraction freedom has for millions of people everywhere on Earth. The Soviets do not like to be reminded of all the provisions of the Helsinki Accords.

In the competition between the Soviet Union and ourselves, we stand to benefit enormously from the comparison between our values and political methods and theirs. We should not deny ourselves that benefit.

To argue these points, let me emphasize, is not to argue that every human rights decision of the last Administration was perfect. The lessons we learned about human

rights in the last few years were hard ones, and it will do no good to pretend otherwise. We learned, for example—if there was ever any doubt—that it is easier to help individuals than to reform whole social systems. We learned that the most effective moment to apply human rights persuasion is not when a government is in danger of imminent collapse. We learned that the cumbersome machinery of economic assistance is at best an imperfect instrument of persuasion.

But some of the lessons of the last few years were hopeful ones and should not be forgotten. There were important achievements. In large part because the United States used its influence positively.

A threat to free elections was averted in the Dominican Republic;

36,000 political detainees were released in Indonesia;

The Korean opposition leader Kim Dae Jung was saved from execution;

The number of "disappearances" in Argentina was reduced sharply;

Opposition figures in the Philippines were permitted exile instead of harsher fates.

My argument is not that past policies were an unmitigated success; it is simply that our national interest, as well as our national conscience, requires America to take a positive stand on human rights; we cannot duck the issue. In my judgment, it will prove neither wise nor possible to pretend that we can do without an affirmative policy on human rights.

IV.

Yet the evidence so far suggests that our current Administration is attempting to do just that. And in this process, it is allowing the impression to arise that the United States is not serious about human rights, except perhaps within the Soviet orbit of influence—and thereby giving the "green light" to those who would like to torture and suppress without publicity or penalty.

There is, first of all, the administration's continuing failure to name a replacement after the withdrawal of Mr. Ernest Lefever from consideration for the post of Assistant Secretary for Human Rights. To cite budgetary reasons for leaving the post vacant is hardly convincing.

And there are other signs as well, some of them more troubling than mere inaction:

The Administration, for example, has lifted Export-Import Bank restrictions on Chile, and reversed our long-standing practice of opposing Chile's human rights violations at the United Nations Human Rights Commission in Geneva. What an embarrassment when we voted with the Soviet Union, rather than the democratic countries of Latin America and western Europe, against continuing the mandate of the working group on Argentinian disappearances!

The legal requirements of the International Financial Institutions Act have been strained, if not violated, by United States votes for loans to Argentina, Chile, Paraguay and other nations with serious human rights deficiencies.

The Administration has announced that human rights will not play a significant role in discussions on arms sales, a position which violates the spirit, if not the letter, of the Foreign Assistance Act. And in fact, it appears that the Administration, reaching decisions on arms sales to Salvadoran and Guatemalan military governments, has given little or no thought to human rights considerations.

The Administration has diluted our government's formerly strong support for the Human Rights Commission of the Organization of American States, which for years has been an effective factfinding and investigative body in the field of human rights.

And in a decision that can only be described as bizarre for a conservative government bent on showing toughness to the So-

viet Union, the Administration lifted the grain embargo against the Russians—while the Soviets continue to occupy Afghanistan. What is being done, practically speaking, to get the Soviet boot off the body politic of Afghanistan? Are we more interested in tying down the "bear" in southwest Asia—than in freeing human beings from foreign aggressors?

To this list of unfortunate substantive gestures, we must add some disturbing symbolic ones: public acts and statements by Administration figures who seem almost embarrassed by the idea of support for human rights.

Last April 30, President Reagan, while addressing a "Day of Remembrance" of the Holocaust, seemed to affirm the fundamental nature of human rights. ". . . (E)ven at the negotiating table," he said, "it shall never be forgotten for a moment that wherever it is taking place in the world, the persecution of people for whatever reason—persecution of people for their religious beliefs— . . . is a matter to be on that negotiating table or the United States does not belong at that table."

But then a White House spokesman felt it necessary to assure the New York Times that Mr. Reagan "had not meant to alter his policy of playing down the rights issue in foreign relations."

On June 30, the Vice President attended Philippine President Ferdinand Marcos's inauguration and said, in a luncheon toast, "We love your adherence to democratic principle and to the democratic processes . . ." His words seemed—and still seem—oddly effusive for a President who has jailed and exiled his political opponents.

Late last month the Assistant Secretary of State for African Affairs, Mr. Chester Crocker, told a convention audience that "it is not our task to choose between black and white" in South Africa, where blacks and their sympathizers are denied fundamental rights. Is there any doubt that this administration is sending signals to South Africa—and to the rest of Africa—both in our foreign policy postures and in the domestic policies emerging from the Justice Department? We must not retrogress into endorsing racism.

And recently our United Nations Ambassador during a visit to Chile, called for normalizing relations between our two countries in spite of "outstanding questions" between us. One of those outstanding issues, of course, is the murder of Orlando Letelier, a former Chilean diplomat, by Chilean operatives on the streets of Washington; Chile has so far refused to cooperate in bringing them to justice. Two days after our Ambassador departed Chile, that country exiled four human rights advocates—without protest from Washington. On that same trip, she even criticized the democratic government of Costa Rica—for not having an army!

Last year Mrs. Kirkpatrick, writing in *Commentary*, drew a distinction between authoritarian governments and totalitarian regimes. In authoritarian governments, she suggested—which are often our allies—there is at least the possibility of evolution toward greater freedom; under totalitarian regimes, repression is suffocatingly complete; it extends to every realm of life. Her distinction, it seems to me, is potentially useful—if in fact we are working to bring about the evolution toward freedom of which she writes; if we are willing to use our powers of persuasion; if we vigorously encourage our authoritarian allies to move toward expanded liberty for their people. What a tragedy it would be, however, if her distinction between the authoritarian and the totalitarian turned out to be simply a rationalization: an excuse for letting repressive allies off the hook.

The Administration has suggested—and has assured the Congress—that it will practice a quiet diplomacy in support of human

rights. But quiet diplomacy will count for little if it is undercut by public acts and statements to the contrary.

Quiet diplomacy can be effective. But to be so, it must be true and firm; it must be vigorous and unambiguous. And it must, at every step, be backed by the possibility of public gestures. After almost a year in office, this Administration has not simply shifted to a strong but quiet diplomacy or human rights; it has, instead, allowed an impression to arise that it will not be concerned with human rights in our dealings with our friends and allies.

This is a misfortune. It is a misfortune not just because it demoralizes people abroad who look to us for leadership in the field of human rights. It is a misfortune because a human rights policy that looks only in one direction—toward the violations of our adversaries—will have zero credibility in the world. And it is a misfortune because our diplomacy, in the end, cannot succeed unless it advances a decent vision of human life: unless it raises "a standard to which the wise and honest may repair."

V.

This issue of human rights, in the end, should not be a liberal issue or a conservative issue, nor even an exclusively American issue. It is a human issue which challenges and tests us all. On the issue of human freedom, liberals and conservatives, supporters of Jacobo Timerman and Alexandr Solzhenitsyn, should be able to find common ground.

Those conservatives who have taken up the cause of Soviet Jewry and the Soviet dissidents, who have publicized the heroism of the Helsinki Watch Group, have understood this—and they have built a record of support for human rights. Their record suggests that liberals and conservatives can find some common ground on the issue of human rights. I would suggest that we might agree on a few first principles:

That the United States has a legitimate interest in promoting human rights;

That the United States should take an active official stand against practices which outrage human dignity, from torture to "internal exile"; and

That the ultimate purpose of our foreign policy must be not only to ensure our physical survival, but to establish democratic institutions.

Let those conservative champions of human rights come forward now. Let them suggest, to their President and their Secretary of State, that it is not too late for this Administration to fashion an affirmative policy of support for human rights: a policy that underscores, for example, the power of democratic capitalism as a force for freedom and diversity.

It is not too late, less than a year into a new Administration, to begin that effort. And a great deal is at stake. The tide that is running in the world on behalf of freedom—in Africa and Chile as well as in Poland—should not be ignored or resisted by the first nation born in the name of human rights.

What is at stake? Not only our moral credentials, but our national security as well. For if America and her allies are ever to be safe in the world, not only our armies but our values must be strong—and visible for all the world to see. So on this issue, I say, America, "to thine own self be true."●

DEPARTMENT OF DEFENSE PROCUREMENT PRACTICES

● Mr. ROTH. Mr. President, on Sunday the Washington Post ran an excellent story concerning the cost problems which have haunted the procurement of the Trident submarine. It is a thought-provoking, well-researched article which

reveals, in great detail, some of the serious problems which plague the development and purchasing of major weapons systems in DOD.

While the article was a penetrating analysis, it is sad to note that little it revealed is new to the business of buying weapons. Inadequate cost estimates, inappropriate contracting procedures, excessive development and production lead times and expansion in the sophistication of weapons procurements, as revealed in the Post article, are not unique to the Trident program. Unfortunately, history repeats itself over and over again in many DOD procurement programs and the broken record of excessive costs in DOD has long since worn down the patience of the taxpaying public.

Mr. President, I do not dispute the need to enhance our defensive capability. However, because of inefficient DOD practices, more money seems to be buying less protection for our Nation.

My Committee on Governmental Affairs will, in late October, be holding hearings on ways to improve DOD's management of its procurement practices. I am hopeful we can, through those hearings, identify and add our committee's support to effective methods of improving the procurement process. Examples of apparent DOD mismanagement, as in the case of Trident, dilute public support for Defense programs and make it more difficult to do the job that needs doing.

Mr. President, I ask that the article entitled "Depth Charge," written by Morton Mintz, be printed at this point in the Record.

The article follows:

[From the Washington Post, Oct. 4, 1981]

DEPTH CHARGE

(By Morton Mintz)

In 1973 and 1974 a bitter dispute raged behind the scenes in the Pentagon over a stupefying technical subject: the terms of a contract.

The contract was for the first Trident, a new submarine almost as long as two-football fields. The Navy is buying eight, is authorized to buy a ninth, and has a wish list for 15, possibly even 29.

Each would lurk in the oceans with probably 168 or 336 thermonuclear warheads, just one of them able to take out a city or, if the desired accuracy is achieved, a hardened missile silo with a blast four or five times greater than the one that leveled Hiroshima.

The contract dispute was fundamentally over the cost of the first hull. One faction saw no way to predict the cost, and wanted the contract to be open-ended to reflect this candidity.

The other faction was bent on sustaining the impression that the cost could be nailed down in advance, in just the amount, it happened, that Congress already had budgeted.

The second faction won. Its victory contributed to one of the largest overall cost overruns in Defense Department history.

The Navy, in 1972, was roughly figuring the cost of a Trident including its interim missiles at \$1.35 billion. By 1977 the Navy, still lacking detailed estimates and constantly changing its definition of unit costs, acknowledged an increase of \$650 million per ship, and the General Accounting Office rated even that calculation too low.

Last year the Carter administration figured \$2.4 billion, a number omitting the missiles and some other costly items. Now the Reagan administration, computing costs the same

way but claiming more optimism about inflation, says \$2 billion.

How did this happen? This is an account of how politics on Capitol Hill and in the Navy, log-rolling at the White House and the Pentagon, massaged a new concept, envisioned as "rather austere," into an awesomely expensive weapons system, a submarine that dwarfed its original prospectus in size and complexity and, above all, cost.

What happened? The evidence, including many Pentagon documents never revealed previously, shows that the Navy rushed to Congress for construction funds before its designs were ready, even before it was fully certain what the Trident should be like.

Then the Navy signed an ingenious rubber contract with the shipbuilder that would appease the congressional worries about costs but at the same time assure the contractor that the real price tag would be much higher.

This happened too; once the Trident construction was launched, Congress looked the other way, even though procurement experts warned repeatedly that the contract cost figures were a sham. Today, many years later, those experts have been proved correct.

The Navy, meanwhile, is continuing to obscure the true cost of the Trident. It is possible, unless Congress develops more zeal in the matter, that the American taxpayers won't know what these formidable boats have actually cost until 1986, long after many Tridents are cruising the seas with their thermonuclear warheads.

Sometime in the coming weeks at the Groton, Conn., yard of the Electric Boat Division of General Dynamics Corp., the first completed Trident, the *Ohio*, is expected to be delivered to the Navy. This will be almost four years after the first delivery date given to Congress, when speedy production was a winning argument on Capitol Hill.

Neither Congress nor the administration takes much interest in questions about Trident program mistakes these days. But the lessons may be relevant, as the government busies itself with plans for awesome new weapons, new concepts and new contracts that will stretch out over the coming decade, consuming hundreds of billions of dollars.

ALWAYS A NEXT STEP

Expensive ideas have complicated histories. The Navy first began to build nuclear-powered submarines in the 1950s, then to convert some of them into underwater launching pads for ballistic missiles.

It eventually built 41 of these Polaris and Poseidon missile-launching subs. Together they had the theoretical capability to fire more than 5,300 thermonuclear warheads up to 2,500 miles, enough to reach any point in the Soviet Union from somewhere in the seas. Jimmy Carter observed in 1979 that just one Poseidon boat had the ability to "destroy every large- and medium-sized city in the Soviet Union."

But weapons systems grow old and become outdated like everyone else—two Polaris subs already have been taken out of service—and there is always a next step in weaponry.

In 1966 the Defense Department set up a panel of experts, called Strat X for Strategic Experimental, to assess more than 100 ideas for increasing U.S. ability to fire nuclear missiles into the Soviet Union if the Soviets were to develop an effective antiballistic-missile system.

Then, as now, a critical question was how to base whatever missiles were to be employed. One alternative the Strat X group finally endorsed was an underwater basing system: a new submarine to lurk in the depths.

Rear Adm. George H. Miller, retired head of the Navy's strategic systems office, who was the Navy's representative on Strat X, says that as first envisioned the ship was to be "rather austere," in part because it would

not have to go very fast and consequently wouldn't need a very large nuclear power plant.

The towering figure in all Navy nuclear matters is the powerful and cantankerous admiral known as the father of the nuclear Navy, Hyman G. Rickover, 81. Importantly, Congress looks on him as a guru in nuclear naval matters.

He wanted a huge reactor, with 60,000 horsepower, arguing on Capitol Hill that it would give Trident the high speeds it needed to escape if detected. Critics warned, however, that the noise accompanying such speeds would make the boat easy to detect and destroy. Rickover, as is his policy, declined to be interviewed for this article.

A larger reactor meant a larger and costlier sub, and less money for other new ships the Navy wanted. "It was a very close choice," retired Adm. Elmo P. Zumwalt, who was the chief of naval operations, recalled in an interview. "The overriding thing was that you couldn't get Adm. Rickover's support without going along with the requirement for the reactor he wanted."

And why was Rickover's support so important?

"Because you couldn't get congressional support without it," Zumwalt said. "It was clear that we badly needed to get the Trident missile to sea. The only way we could do it was to buy Adm. Rickover's reactors. We had to do it. I considered the Russians a bigger problem than Rickover."

But Rickover was not the only one who had to be accommodated. Other strategists were concerned less with the size of the reactor than with the reach, and therefore the size, of the ultimate Trident 2 missile. It will weigh 63 tons and be 42 feet long and 7 feet in girth. "The missile sized the submarine," said retired Adm. Isaac C. Kidd Jr., former chief of the Navy Material Command.

In any case, the Trident came out about half the size of a World War II battleship. Its diameter is 42 feet. The length of a standard city bus is 40 feet. It is 560 feet long and displaces 18,750 tons. The Strat X sub was to be about 100 feet shorter, was to displace about 8,000 tons, and might have had external missile tubes.

Another decision was to carry 24 missiles inside each Trident, eight more than on a Poseidon boat. Why 24? Miller, the Strat X expert, said the decision was "arbitrarily made, just to make the expensive sub look more cost-effective."

According to new Pentagon timetables the Trident 2 will begin to be deployed much behind schedule, in 1989. It will replace the interim Trident 1, which is basically a Poseidon missile souped up with a third-stage rocket to extend its reach to 4,000 miles. The Strat X panel had urged a brand new 6,000-mile missile, and contractors would have competed to build it. A 6,000-mile range is also the goal for Trident 2.

Then-defense secretary Melvin R. Laird and his deputy, David Packard, opted in 1971 for a transition with Trident 1, a missile that could be built only by the then-financially troubled Lockheed Corp., the Navy's exclusive missile supplier. The decision was tantamount to a huge noncompetitive award to Lockheed, which is now also the contractor Trident 2.

HURRY, HURRY, HURRY

Laird decided in December, 1971, to try to accelerate the Trident program. He approved a request to Congress for \$900 million, partly for research and development, but also partly to start production.

The production request was made even though the Navy was nowhere close to a final Trident design. This was too much even for the usually supportive Senate Armed Services Committee, which rejected the \$900 million item in an initial vote in April, 1972.

But even as the committee was voting, a

wholly new and unrelated factor was coming into play. It was SALT, the strategic arms limitation treaty with the Soviet Union that Richard M. Nixon signed in May, 1972. To sell SALT in the Senate, Nixon wanted the support of the Joint Chiefs of Staff.

In return for their support, the chiefs wanted more arms commitments. What happened next was reported in an article written in 1975 by John Steinbrunner, a Brookings Institution military affairs expert, and Barry Carter, who worked on SALT as a National Security Council analyst under Henry A. Kissinger.

Adm. Thomas H. Moorer, then chairman of the joint chiefs, "made approval of strategic funding requests, including that for the accelerated Trident program," a condition for his support of the SALT agreements, Steinbrunner and Carter wrote.

The administration fulfilled its part of the bargain by redoubling its efforts, asking Congress for \$908 million in fiscal 1973 to speed up the Trident program. Appropriate that much, it told Congress, and the first ship can be at sea by 1978.

There was still resistance. Led by Sen. Lloyd Bentsen (D-Tex.), many senators protested that the administration had made no "clear and compelling" case for freezing the design, let alone for starting production in what they portrayed as a violation of Packard's much-touted "fly-before-you-buy" policy. The record showed that concurrent development and production all but guarantees a cost overrun of about 25 percent, they warned.

And, they wondered, why the hurry for Trident when the probably invulnerable Polaris and Poseidon boats would be on station for 20 years to come? (A year later, the Pentagon would admit that not until the early 1980s would the Soviets acquire the capacity to threaten the Polaris/Poseidon deterrent. Even today, there is no evidence that the Soviets can detect and track those boats.)

They also were angered by the Pentagon's coziness about key data, such as whether the number of missile tubes was frozen at 24. At a supremely opportune moment, the Navy assured Sen. Henry M. Jackson (D-Wash.), a Rickover ally, that the number of tubes could be reduced as late as the fall of 1973.

Subsequently, the Navy made a surprise announcement: it would build a \$550 million, job-creating Trident base in Jackson's Washington state, not as most everyone had been led to believe, on the Atlantic Coast.

On the Senate floor in 1972 Bentsen tried to knock out the production money, leaving only R&D funds of \$400 million. He lost, 47 to 39.

The next year, the administration was back with a request for \$1.5 billion more for Trident for fiscal 1974. Again there was a promise of a Trident at sea in 1978. Again there was high-powered lobbying, with leading roles being played by then-defense secretary James R. Schlesinger and Rickover and Zumwalt.

And again there was resistance. Pleading for a 1980 delivery date, then-senator Thomas J. McIntyre (D-N.H.) led a fight to cut the outlay to \$642 million. He, too, was defeated, 49 to 47, in September, 1973. Congress had voted to proceed with the giant new submarine, full speed ahead, while the Navy rushed to complete the design.

WHICH COST METHOD?

There are two basic kinds of shipbuilding contracts: fixed-price and the cost-plus-incentive fee which gears the amount of a builder's profit to his success in holding costs down.

It is basic Navy policy to use "cost type" for ships that are the first of a kind. Cost type is regarded as fairer to builders and more realistic, in that new ships almost al-

ways turn out to be more complicated and costlier to build than had been expected.

In the case of the first Trident, however, there developed what retired Rear Adm. Kenneth L. Woodfin, then deputy chief for contracts in the Navy Sea Systems Command, remembers as "great pressure" to use "fixed price."

This pressure came partly from Capitol Hill, where skeptical senators had been assured that Tridents could be built relatively swiftly, and for a very specific amount, \$1.35 billion each.

It also came from within the Navy, where there were fears that Trident would drain off too large a share of the total construction budget, and where fixed-price contracts were powerfully urged by the redoubtable Rickover.

All though the lengthy contract negotiations period admirals wrote memos reminding each other that a cost-type procurement would be right for the *Ohio*. At one point, Adm. Kidd, nominally Rickover's superior officer, wrote that his "convictions were reaffirmed that a cost-type contract is the responsible and proper instrument to build a first-of-class ship. The lead Trident is no exception."

Rickover, however, is known to have argued internally that Trident was not really different from predecessor submarines, just larger, that it was "bread-and-butter shipbuilding," and that a fixed-price contract was a necessary discipline on the construction process.

And when the Navy, in May, 1973, asked two shipyards to submit bids to build the *Ohio*, it was on a fixed-price basis.

One of the shipbuilders, Newport News Shipbuilding and Drydock Co of Virginia, refused. Instead, it offered to build the *Ohio* on a cost basis with delivery in May, 1981, more than three years after the delivery date the Navy had dangled temptingly before Congress.

Newport News Shipbuilding could afford to be this assertive in its response to the Navy; it is the only builder of nuclear-powered surface warships and submarines, as well as of conventional merchant ships, and so it did not need the business that badly.

By contrast, the other shipbuilder, Electric Boat in Groton, builds only submarines. It is a company with one customer: the Navy.

At the outset, notably, even weaker Electric Boat refused to undertake the *Ohio* on a fixed-price basis. In a letter to the Navy in November, 1973, the company said there were too many "inherent cost uncertainties" to justify a fixed-price commitment.

Its plea was unavailing. The Sea Systems Command told Electric Boat to resubmit its proposal in fixed-price form. Company counsel William Gorvine was asked in an interview earlier this year why the Navy was so insistent. "My more-than-belief is that it was Adm. Rickover," he replied.

In the close-order contract negotiations that followed, the Navy and Electric Boat each had rules of thumb for extrapolating costs. Essentially, these derived from standard calculations, the man-hours required to build, say, a piping system, and from experience.

Electric Boat had built its first submarine in 1900 and, at peak production in World War II, produced one every two weeks. The company also had done some of the preliminary research and development work on Trident and a full-size wooden mock-up.

Yet judgments and guesses were unavoidable. For one thing, Gorvine said, the Navy was able to provide few detailed drawings, leaving Electric Boat with "very little information" on which to base cost estimates.

Also, the company would rely on two new and untested major production resources: a \$150 million land-level submarine construction facility, the world's first, and a "revolutionary" plant at Quonset, R.I., for auto-

mated prefabrication of 42-foot-diameter hull sections.

Predictably, the company and the Navy each came to the negotiating table with estimates favoring its own side. In March 1974, the direct costs of materials were figured by the company at \$64.6 million and by the Navy at \$53.3 million; of manufacturing labor, \$98.6 million as against \$68.7 million, and of overhead, \$74.4 million against \$53.2 million. The company total for hull construction was \$308.9 million, including a 14.2 percent profit.

It was striking that the Navy total, \$244.7 million, coincided with the amount budgeted by the Sea Systems Command. Just such practices in the Pentagon had riled Jerome H. Stolarow, once the General Accounting Office's senior procurement analyst.

"I think the planning estimates are not honest," he told a House Government Operations subcommittee in 1979. The subcommittee found that, over the 1970s, every major weapons system had come in over the planning estimate, and the average final cost had turned out to be more than double the initial figure.

In the Trident case, there were similar internal objections, voiced at the time. One came from Navy financial specialist P. W. Peterson.

"A more realistic target price," one allowing adequately for expected additional costs of \$34.9 million and for a profit of \$31.1 million, was \$310.7 million, he wrote in an internal paper when the Navy was shooting at \$244.7 million. The lead ship, he said bluntly, was \$66 million short of being "fully funded."

The negotiations bogged down. Kidd then revealed his worries about the basic course the Navy was steering, writing a March 18, 1974, memo "about the probability of (1) budget figures driving the pricing of the ship contract, (2) budget figures dictating the use of an inappropriate type of contract and (3) an unreasonable delivery date: December 1977."

Kidd sent the memo to Robert C. Goodling, the vice admiral (three stars) who headed the Sea Systems Command in which Rickover (four stars) was, on the organization chart, a subordinate.

A decision was finally made to go back to the bargaining table for another 60 days. Those 60 days produced a contract, a marvelously inventive rubber document that both was and was not for the fixed price the Navy wanted.

It was, as the now-retired Goodling observed in an interview, a fixed-price contract with "rather liberal provisions." At the top levels of the Pentagon, Rear Adm. Woodfin wrote in a memo, the contract "was epitomized as in reality a 'cost-type with a ceiling.'" He underlined the word "reality."

As noted, this contract was only for the hull, including installation of government-furnished equipment. The administration's current \$2 billion estimate includes some of that gear, R&D and a share of the base at Bangor, Wash.

But it excludes a pro-rated share of tens of billions of dollars to be spent for both interim and final missiles, nuclear reactor cores and fuel, a projected East Coast base and support costs over the system's life cycle.

The joker in the Electric Boat contract was that the difference between "target cost" and "ceiling price" was the greatest in Navy history. These were its terms:

It set the "target cost" of the Ohio hull at \$253 million; and provided a profit (or "incentive") of an additional \$32.4 million. But target plus incentive were not all the Navy would pay. The contract also held out what were called "share lines" to Electric Boat. These were provisions for sharing costs in excess of the target figure.

Of the first \$26.6 million in such costs, the Navy promised to pay 95 percent. Electric Boat attorney Gorvine acknowledged in the interview that this was a roundabout way of writing into the contract the target figure "we really believed in," meaning \$279.6 million. Yet it left the Navy able to say on Capitol Hill that it was staying within its \$253 million authorized budget and cash reserves.

But the contract also contained the further promise that the Navy would pay 85 percent of costs from \$279.6 million to \$385.4 million, the "ceiling price." This ceiling was 152 percent of the target price. Only beyond that point would the company become fully liable for costs.

Finally, all these arrangements were independent of inflation. The Navy agreed to pay 100 percent of cost overruns attributable to inflation, no matter how late delivery might be, and no matter who would be at fault for late delivery.

In a touch of pure showbiz, the Navy extracted from Electric Boat a penalty-free, non-binding pledge to make its "best efforts" to deliver the Ohio in December, 1977. It did this even though a separate contract set a mid-1978 date for IBM to deliver the command control system, so that an Ohio delivered in December, 1977, would have been inoperable.

There was also a "guarantee" of delivery by April, 1979, but once again no penalty for being late.

The Ohio contract also spoke of work on three more Tridents. At one point Electric Boat had wanted to be guaranteed contracts for these "follow" or "option" vessels. The Navy had balked, because Congress had not funded them. But it did the next best thing: it spelled out how much it would pay Electric Boat if the company did get the contracts.

At the time, reliable cost data even for the Ohio were relatively scanty. Yet the Navy somehow divined precise target costs and ceiling prices for each of the three option subs, boats that had yet to be purchased and that would not be delivered for several years. The putative combined ceiling price for all four hulls was set at \$1.2 billion: 147 percent of the combined target costs.

Adm. Kidd, with the candor that is his hallmark, now says, "Obviously, in retrospect, there were a lot of rash promises made, and bad guesses." He had resisted the Ohio contract, then went along.

"In retrospect, I was wrong," he now says. "In retrospect, it's probable, one can never be absolutely sure, that we would have been better off if I had stuck to my guns."

Another memo Kidd wrote at the time suggests under what pressure he, the other flag officers and the Navy generally were.

"Keep in mind," he said, "that the Navy and the United States can only stand to lose if we fail to come up with a reasonable and practicable solution devoid of the guesswork and optimism which has characterized so many of our past shipbuilding contracts."

The Navy's top procurement specialist, however, did not acquiesce in the contract. He is Gordon W. Rule, praised by Kidd as "one of the finest, if not the finest, contracting gentlemen I've been privileged to be associated with."

Rule was honored by the Navy with its highest civilian award for distinguished service. A famously outspoken civil servant, now retired, he was then head of the Navy's Procurement Control and Clearance Division, which reviews the business aspects of major contracts before they are let.

Asked to clear the Ohio contract, Rule refused.

It has a "built-in overrun" and was "the most flagrant and unforgivable example of the Navy knowingly insisting upon the wrong kind of contract," he said in an interview.

Partly because Rule refused to back off, the Navy procurement brass bucked the contract

up to then-deputy defense secretary Bill Clements, now the Republican governor of Texas, who asked an aide, Vice Adm. Eli T. Reich, to analyze it.

The award of a lead ship "under other than a cost-type contract appears to run counter to the stated Navy policy," the now-retired officer told Clements in a memo.

But both the contracting officer and the project manager seemed "sanguine that the contract can be brought in successfully under the FPI [fixed-price-incentive] arrangement," he wrote. "We are constrained to agree with them even though we do not share their extreme optimism." He advised Clements personally to seek "a concurrence by the top management" of General Dynamics that it takes "satisfaction" in the contract.

Reich said he believes Clements did this. The company's response could not have been a surprise: it was delighted to get a sole-source, risk-free contract that would keep its threatened shipyard busy for its only customer for years to come and could bring in more than \$1 billion in the first, four-boat phase of what could be a 15-boat or even larger program.

The contract was signed July 25, 1974.

AN EPIC EVENT

In the tight world of defense procurement, Rule's refusal to sign off on the Trident contract was an epic event. Word of it quickly seeped out to Rep. Les Aspin (D-Wis.), a member of the House Armed Services Committee and frequent critic of the Pentagon, where he once worked in systems analysis under Robert S. McNamara.

Asin wrote Rep. Charles E. Bennett (D-Fla.), chairman of the Armed Services seapower subcommittee, urging an investigation. He had heard that the contract might be headed for "a classic screw-up," Aspin said.

Bennett's response was unenthusiastic. Like many other senior members of the military committees on Capitol Hill, he does not claim to be a zealous overseer of the armed services. "The main function of Congress is to get whatever national defense is needed," he said. "Oversight is not a major function."

The chairman did not feel that he could ignore Aspin's request entirely, however. So he asked for "input" from Rule and the GAO.

Rule's 19-page response was so blistering that Adm. Kidd forwarded it only with some anguish, saying in a covering letter defending the contract that he felt Rule had "transgressed the bounds of propriety."

Among many other things, Rule said the Navy had simply caved in to what he called the "dictates" of Adm. Rickover in drafting the contract, that as a result the contract carried the label "fixed price"; but that in fact there was "an obvious . . . overrun of target cost built in."

He also said the contract was really for four ships, not one; that its provisions as to three option ships after the first were part of a "quid pro quo" for Electric Boat's acceptance of a fixed-price arrangement, and that its price limitations were meant to guarantee that Newport News shipbuilding would never invest the \$50 million needed to get started as a competitor to Electric Boat in the Trident business.

The GAO came to almost the same conclusions. Its heretofore undisclosed draft report, completed in February, 1975, said that, because of "considerable risks" and "uncertainties—in design, in achieving performance goals, in obtaining required material and labor over a long performance period, and in completing expanded facilities," a fixed-price contract "does not seem appropriate" for the Ohio. The word "not" was underlined. "Solely on the basis of the size and complexity of the Trident as compared with other previous submarines, a cost-type contract would have been more appropriate," the report continued.

It also said that:

With only 15 percent of the drawings complete for the Ohio, and with a large share of the cost estimates for materials unsupported by quotations from suppliers, the Navy lacked a "realistic" or "valid" basis for cost projections. Consequently, "We do not know whether the target cost . . . is underestimated or overestimated."

"We do not believe that the Trident contract should be characterized as a competitive procurement."

The commitment to specific prices for the option ships was made "too early."

The experience gained by Electric Boat in building the first four Tridents will leave Newport News unable to compete on price.

The Navy's insistence on delivery of the option ships no later than December 1980, made it unrealistic for Newport News to seek to compete, it having set May 1981, as the earliest delivery date for the lead boat.

On the other hand, although it is "evident" that the contractor will build the three option ships, "we find no evidence that Electric Boat agreed to accept [a fixed-price contract] because the Navy gave it a four-ship contract."

Three GAO officials came to Bennett's office to present him with these findings on Feb. 12, 1975. They were not received in friendly fashion by Bennett and two aides. Flanking them were two admirals and a lieutenant commander who had key roles in pushing the contract through and who had close ties to Rickover. Not invited was Rule.

One participant wrote in a memo at the time that Bennett, becoming more and more agitated as the GAO officials described the contract's faults, accused the congressional watchdog agency of "supplying ammunition to the country's enemies."

In their presence, Bennett then dictated a letter to Elmer B. Staats, then comptroller general and head of the GAO, saying that as drafted the GAO report would "not be helpful to Congress, or to the country, in deciding on the propriety of the contract" but would "only confuse and mislead."

All he really wanted, Bennett wrote, was "a simple, preferably one-sentence opinion as to whether this is the wrong kind of contract."

Perhaps disarmingly, he added: "Do not let any of my opinions as expressed in this letter influence your substantive judgment one way or the other."

Staats responded in a letter in which he first accurately summed up the report, then pulled some of its sharpest teeth by saying, "We do not believe the Navy's choice of a contract was wrong," and by rating its criticisms of the Navy's handling of the contract "minor." GAO critics have complained for years that it tends to find what Congress wants it to find.

A week after he received Staats' letter, Bennett exploited it by issuing a news release with an exultant headline: "GAO Finds Trident Contract Charges Generally Unfounded."

Shortly afterward, Rule, mentioned several times in the news release, became the rare civil servant who excoriates a member of Congress.

In a six-page letter, he accused Bennett of an attempted "cover-up," of a "disservice," of helping "to perpetuate the horrible track record we have in buying ships in recent years," and of an effort to browbeat Staats into providing "a watered-down version [of the GAO staff report] to better suit your purpose."

Rule also called the news release, "misleading and inaccurate," and said it "falls utterly to reflect" the GAO's "fair and factual" and "unlauded" findings and was an effort to bury them.

Recalling the meeting with the GAO investigators, Rule told Bennett that "You . . . obviously did not like what you heard or

perhaps did not understand it." He enclosed a copy of the draft report so "that you may read it someday and learn exactly what the GAO said."

Bennett's response was gentle: "I certainly hold you no ill will; and frankly, I was surprised that your letter to me indicated great sensitivity that I felt had no foundation in anything that I had done or thought." The letter was closed, "with kindest regards."

MEANWHILE, IN 1981

Over the years, long after Congress lost interest, it developed that Rule and the other critics were right. On several occasions, the Trident contract produced public embarrassment for the Navy. One was a November, 1977, news conference called after reports appeared in the press that the Trident was far over budget.

Confirming a \$400.8 million overrun on the Ohio, the Navy accounted for it with confusing, inconsistent and wrong numbers it kept changing on the spot and later.

In its final breakdown of the \$400.8 million, given to the GAO months afterward for an April, 1978, report, the Navy listed overruns of \$114.4 million on the Electric Boat contract, \$80 million on design changes, \$73.2 million on government-furnished gear and \$133.2 million for inflation.

Those who had favored a fixed-price contract had argued internally that the Trident was just like any other submarine, no special case. Now the Navy reversed itself in public.

"I'd like to emphasize that this ship is over twice as large as any submarine we've ever built before," Rear Adm. Donald P. Hall, a Trident program director, told the news conference. "The technology is extremely advanced . . ."

So did Edward A. Hidalgo, secretary of the Navy in the Carter administration. When asked if Trident was a new class of ship, Hidalgo said: "God knows Trident is. Notoriously."

Again this year the Trident contract came to the surface, this time mainly over questions of quality of workmanship and delay. The new sub is not ready, even as the old Polaris subs have to be taken out of the water.

An indignant Navy has left no doubt whom it holds responsible for the gap between promises and performance, Electric Boat, as though the Navy had had no role in the broken promises. "Pure flimflam," says Rule.

And how much is the Navy going to end up paying Electric Boat for the Ohio? In 1978 that question was asked at a Senate Armed Services Committee hearing.

The Navy's answer was that it could not say. There was no way of separating out the first Trident from the three follow ships for which Electric Boat had been granted the contracts in due course.

Why was there no way? Because, at Electric Boat's instigation 2½ years earlier, the Navy, telling no one, not even its own contract-clearance shop, had consolidated the contracts into a single group.

"Contractual arrangements are such that target and ceiling are only applicable for each group of ships, not each ship," Vice Adm. C. R. Bryan, then head of Sea Systems, told the committee.

After the Navy failed to respond to repeated Washington Post inquiries about the consolidation and related matters, Rep. Bennett volunteered to relay them directly to Navy Secretary John F. Lehman Jr.

Two months later, prodded also by Freedom of Information Act requests, the Navy did produce some figures. The Ohio hull, it said, will exceed its \$285.4 million "target price," made up of the target cost and agreed-upon profit, by \$100.3 million, or 35 percent, not counting the costs of inflation and late delivery. The first three follow ships

also will exceed their combined target prices of \$699.4 million by \$124.8 million.

These figures came over the signature of acting Navy Secretary Robert J. Murray. "No attempts to conceal overruns," have been made, he wrote. Inflation aside, he said "there is no projected overrun" on the four hulls.

That meant no overrun of the combined ceiling price, the price that's 147 percent of the combined target cost, the price tag sold to Congress a decade ago.

The Navy has since expanded the first group of ships to seven. Not until all seven are completed, perhaps in 1986, will their final costs "be releasable to the public," the Defense Contract Audit Agency said in response to an inquiry.

If that is so, the taxpayers will not learn the final cost of the Ohio until five years after it is commissioned and 15 years after Congress first ordered an impressive new weapon system called Trident. ●

THE EFFECT OF HIGH INTEREST RATES ON THE ECONOMY

● Mr. BOREN. Mr. President, I rise again to speak of high interest rates and their effect on our Nation's economy. Today, I point with some sense of satisfaction, though I will say very slight satisfaction, at the surfacing of statements of members of the administration which seem to indicate they are finally beginning to understand the need for immediate action to relieve the upward pressures on interest rates.

I point to a story on the front page of the Washington Post this past Sunday quoting Treasury Secretary Donald Regan as being concerned that the U.S. economy may be in a recession and that the Federal Reserve Board should begin thinking about loosening its tight money policies.

Mr. President, this is exactly the contention I have been making for many weeks.

Also, in today's edition of the business and financial section of the Post is a story referring to a split that may be emerging over monetary policy within the administration.

All of this seems to indicate that the continuation of high interest rates and the anticipation of little relief in the near future has finally begun to force the administration to action. The latest set of economic data clearly shows our continuing dilemma. Although the prime rate has dropped to 19 percent as of today we must recognize that a year ago the prime interest rate was 13½ percent. The stated reason for the drop in the prime rate today was that the interest rates on new issues of Treasury bills had dropped to 14.6 percent. However, again, we must realize that a year ago, the 91-day T-bill rate was 10.524 percent.

It is certainly true that the economy is on the verge of a recession, if not actually in the early stages of one. Real gross national product growth was at an annual rate of minus 1.6 percent as of the end of the second quarter of 1981. Housing starts are down and bankruptcies to date in 1981 are over 11,000 compared to some 8,000 a year ago. The Consumer Price Index is up over a year ago as is the deficit in our balance of trade. All in all, a less than encouraging picture.

I welcome the administration's recognition of the need for action, and I encourage them to use the powers at their control to turn that recognition into action soon.

Mr. President, I ask unanimous consent that the two articles to which I referred be printed in the RECORD.

The articles follow:

MONETARY POLICY SPLIT EMERGES

(By Caroline Atkinson)

Signs of a split within the Reagan administration emerged yesterday over monetary policy.

A senior budget official said yesterday he does not think money has been too tight, while other administration sources agreed with Treasury Secretary Donald T. Regan's weekend comments that the time is coming for the Federal Reserve to change policy to ensure "a sufficiency of money to enable the economy to recover nicely."

Sources said, however, that the White House did not want to urge the Federal Reserve publicly to ease its policy. White House spokesman Larry Speakes told reporters that the administration was not "retreating" from its support for monetary restraint but that money growth should be "within" the target range. At present one key money measure—M1-B—is growing below the Fed's target range.

However, Budget Director David Stockman pointed out in a breakfast meeting with reporters yesterday that other money measures are growing at the top of their ranges. While M1-B may grow faster in the coming months, for technical reasons, this will be neither "helpful nor a hindrance" to the economy, he said.

Stockman also suggested that interest rates may stay relatively high for some time to come before financial markets are convinced that Congress will enact the administration's policies. "In the interim, there is a possibility that interest rates will fall anyway" as a sluggish economy chokes off private credit demand, he said. He added that such a "temporary" fall "is a cyclical phenomenon that doesn't address the structural" problem of rebuilding financial confidence.

However, the budget director said he would not predict that a fall in rates in coming weeks would be followed by further rises next year if the economy recovers. Many economists believe that this may happen as a result of the very tight money policy combined with a relatively large federal deficit.

Stockman also said that if the budget deficit swells because growth was lower than forecast, which would cut tax revenues, then it would "not be wise" to offset this with more spending cuts or revenue raisers. "If the budget deficit widens due to recession, then that's clearly a cyclical phenomenon" whereas "I'm concerned about the structural" deficit, he told reporters. Most economists would agree that cyclical changes in the deficit generally should not be corrected.

Stockman maintained that he is "confident" that Congress eventually will approve the administration's proposed new spending cuts because all the other options are unpalatable.

Yesterday, however, two liberal House Democrats suggested separately that it is time for a "bipartisan" effort to "remedy the excesses" of the Reagan economic program by rolling back or deferring the scheduled 1982 and 1983 tax cuts.

Rep. Morris K. Udall (D-Ariz.), in a speech at the Women's National Democratic Club, and Rep. Richard Bolling (D-Mo.), in an interview with a group of reporters, both said that the tax package approved by Congress in August spelled mounting deficits, which can best be cured by slowing the

scheduled tax cuts or repealing some newly opened "loopholes."

The administration is planning to raise a further \$3 billion in tax revenues in a new tax bill for fiscal 1982. Stockman remarked yesterday that he hopes "it's a revenue-raising bill and not a large Christmas tree." He echoed other administration officials, saying that they would not like a repeal or delay of the tax package just enacted.

Stockman also redefined the "truly needy" who are to be protected from budget cuts as the "dependent poor." He said that there "never were any exemptions from spending cuts" and there was no "permanent waiver" of cuts on programs that were spared in the original budget round in February.

But he described the president's campaign promises on Social Security by saying that "current beneficiaries would not have current benefits" changed, and that the president would be "very reluctant" to tamper with the cost-of-living adjustments. A spokesman later emphasized that Social Security cuts were now ruled off limits until early 1983 when the president's suggested commission is supposed to report.

REGAN SAYS FED SHOULD EASE POLICY

(By John M. Berry and Caroline Atkinson)

Treasury Secretary Donald T. Regan, concerned that the U.S. economy may be in a recession, said in an interview with The Washington Post that the Federal Reserve should loosen its tight-money policies.

Regan stressed that he was not calling for an "easy-money" policy. "What I'm saying is that we are coming to a time here where a change has to be made," he said, and Federal Reserve officials "have to be very sensitive . . . as to when is the proper time to change."

"In this flat period, or indeed if it is later determined that this is a recession . . . the Fed has to go countercyclical rather than procyclical," Regan explained. "What I mean by that is that at times in the past it has seemed that in recessionary periods, at least for a while, the Fed has held on too tightly to the monetary reins. . . ."

"What we are trying to do this time, and I know the Fed is as sensitive to this as I am, is to anticipate that and not stay in a low [money] supply mode any longer than is necessary in the downturn."

Regan and other officials were demanding earlier this year that the Fed follow just such a tight-money course to slow inflation. But with interest rates still at levels so high that they are jeopardizing the administration's predicted economic recovery, worried administration economists want the Fed, one way or another, to get interest rates down and boost growth of the money supply.

Regan declined to say exactly how much of a change he wants in Federal Reserve policy, particularly whether he believes the central bank's targets for money growth for 1982 are too low. Federal Reserve officials have told Regan and his administration colleagues that the targets, designed to combat inflation, will not provide enough money to finance the sort of booming recovery the administration wants.

"I'm not going to try to tell the Fed, since I am secretary of the Treasury and they're an independent group, exactly what mechanisms to use in order to do this," Regan said in the interview Friday in a conference room next to his office at the Treasury. But the result, he said, "would be a sufficiency of money to enable the economy to recover nicely from its current flat period."

Regan acknowledged that financial market analysts, already upset by the possibility of very large federal budget deficits for several years to come, might react adversely to an easing of Federal Reserve policy. Rather than falling, interest rates might rise in anticipation of more inflation.

"The Fed's actions could be misinterpreted and that's the danger of their easing too quickly on money, or too much," he said. "We wouldn't want that."

But he said he thought the financial market is beginning to recognize the "flat period" the economy is in, and is becoming more realistic about the possibility that the Fed will have to ease its money policies eventually.

The tight-money policy, along with expectations that inflation will begin to rise again, has kept interest rates unusually high even though the economy has been flat for the last eight months. The shortage and high cost of mortgage money have devastated the homebuilding industry. Many smaller businesses, including a significant number of automobile dealers, are going bankrupt because they cannot afford to borrow at such high rates to finance their inventories. Farmers borrowing against the sale of this year's crops have been hard hit, too.

Officially, the administration has not changed its forecast that the economy, after adjustment for inflation, will grow by 5.2 percent during 1982. And in the interview, Regan maintained that after three flat quarters in a row, including the current three months, "the recovery will start in the first quarter of 1982."

However, that forecast apparently has become conditioned upon a shift in Federal Reserve policy, in Regan's opinion.

But while calling for an easier monetary policy, the Treasury secretary suggested that continuing economic weakness could lead the Reagan administration to propose an even tighter fiscal policy.

Less than two weeks ago, President Reagan proposed an additional \$13 billion in spending cuts for 1982 and \$3 billion worth of tax increases in an attempt to reduce what would otherwise be an estimated \$59 billion federal budget deficit. If a recession caused a large drop in revenues, or a significant increase in spending for unemployment benefits and similar programs, Regan said, more cuts might have to be made.

In addition, some forecasts, based on an expected weak economy, peg federal revenues for 1982 at \$15 billion or more below administration estimates. Of such predictions, Regan said, "If we are going to lose that amount, we'd have to take a very close look at other things. But I don't agree with that forecast."

Regan partly disagreed with economists who argue that it is counterproductive for the government to attempt to reduce a budget deficit which is a result of a recession that is lowering personal incomes and corporate profits. ●

EPA JOINS THE INTERIOR DEPARTMENT IN OPPOSING THE DICKEY-LINCOLN SCHOOL HYDROELECTRIC PROJECT

● Mr. COHEN. Mr. President, 1 week ago, the Department of the Interior informed the Council on Environmental Quality of its strong opposition to the proposed Dickey-Lincoln School Lakes Hydroelectric Project on the St. John River in northern Maine. A second Federal agency, the Environmental Protection Agency (EPA), has now voiced its serious reservations over the unacceptable environmental impacts of the project.

In an October 1, 1981, letter, EPA informed the New England division of the Army Corps of Engineers that:

We find that the Dickey-Lincoln project will result in unacceptable environmental

impacts, that the need for the project has not been fully justified, that practicable and less damaging alternatives are available, and that the project does not comply with Guidelines issued under Section 404(b)(1) of the Clean Water Act.

EPA further concluded that:

Enough information is now available so that no further study of this project is necessary.

For the information of my colleagues, I submit the text of EPA's letter to the Army Corps of Engineers for the RECORD. The correspondence follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Boston, Mass., October 1, 1981.

C. E. EDGAR III,
Colonel, Corps of Engineers, Commander and
Division Engineer, Waltham, Mass.

DEAR COLONEL EDGAR: In accordance with our responsibilities under the National Environmental Policy Act and the Clean Water Act, we are submitting to you our comments on the Final Environmental Impact Statement (EIS) for the proposed Dickey-Lincoln Hydroelectric and Pumped Storage Project, Aroostook County, Maine.

It is our understanding that the Corps plans to submit this EIS to Congress under the provisions of Section 404(r) of the Clean Water Act. Under Section 404(r) a federal construction project specifically authorized by Congress is not subject to regulation under Sections 301, 402, or 404 of the Clean Water Act if a Final EIS is submitted to Congress which contains information on the effects of the project, including consideration of EPA's Guidelines under Section 404(b)(1). As you know, in these cases EPA's responsibilities include not only reviewing and commenting on the EIS as required by NEPA, but also judging: (a) whether the EIS contains the requisite information on the effects of the project, and (b) whether the project is consistent with EPA's Section 404(b)(1) Guidelines.

Over the past four years we have expressed to the Corps our reservations about the unavoidable and unmitigable environmental damage this project would cause to the waters of northern New England, to fish and wildlife resources, and to recreational, aesthetic and economic values. The EIS has been very frank and thorough in its disclosure of these impacts and we compliment you on these aspects of the statement. However, our reservations about the project remain unchanged.

In our review of the Final EIS we have used the Final Section 404(b)(1) Guidelines (FR Dec. 24, 1980). Projects for which Final EIS's are filed after April 1, 1981, are subject to the Final Guidelines. The guiding principles in the Guidelines are that a project must not cause unacceptable degradation of waters of the United States, must not cause or contribute to violations of applicable state water quality standards and must not have practicable alternatives less damaging to the environment.

We have determined that the Dickey-Lincoln project fails to comply with the 404(b)(1) Guidelines. Our reasons are as follows:

The project will permanently destroy through inundation 287 miles of very high quality rivers and streams, 30 lakes and ponds, and 1900± acres of wetlands. These water resources, which are among the highest quality in the northeast, support an excellent naturally maintained brook trout fishery and diverse aquatic plant and animal habitat.

Violations of state water quality standards will occur downstream for a considerable distance for approximately five years during construction and two years during initial operation. The Corps' designation of a 39-mile

downstream reach as a "mixing zone" implies that standards violations are acceptable over the entire reach. This is an inappropriate application of the mixing zone concept. The 404 Guidelines define the term "mixing zone" as "a limited volume of water serving as a zone of initial dilution in the immediate vicinity of a discharge point where receiving water may not meet water quality standards or other requirements otherwise applicable to the receiving water. The mixing zone should be considered as a place where wastes and water mix and not as a place where effluents are treated" (Section 230.3). Furthermore, EPA and the State normally restrict mixing zones to less than a few hundred yards in length.

The 88,000 acre impoundments created by the project will be of marginal water quality and will support a fishery of little value. As we have previously documented, information presented in the EIS does not support the Corps' conclusion that the lake fishery would be viable. The U.S. Fish and Wildlife Service, the Federal agency with the most expertise in fishery resources, also disputes the Corps' conclusion.

80,455 acres of land and the timber and wildlife resources it supports (including 36,893 acres of deer yards) will be permanently eliminated through inundation with the resulting loss of 50% of the deer herd in the 684,000 acre St. John region.

The construction and maintenance of 389 miles of transmission lines will degrade the headwaters of hundreds of New England's rivers and streams through erosion, sedimentation, and herbicide runoff.

The project will result in severe economic losses to the timber industry in northern Maine, already stressed by spruce budworm damage, through the takig of hundreds of thousands of acres (128,212 acres to be taken for the impoundments and buffer zone, 112,370 or more acres to be acquired for wildlife mitigation, and more than 180,000 acres to be effectively isolated from U.S. access).

The Dickey-Lincoln project is not the best available alternative, should a clear need to improve New England's peak power generating capacity be determined to exist in the future. Moreover, project alternatives, such as pumped storage and gas turbines, have far less environmental and economic impact than this project and do not require such a massive commitment of land, water and economic resources so far in advance of a determination of the true requirement for peaking power 20 years from now.

As we have stated in earlier comments, state permits have not been applied for, as requested by the State of Maine and as required by Section 404(t) of the Clean Water Act. If this project were to go forward, application for state permits would have to be made. Section 404(t) provides that any federal agency proposing to place fill material in any portion of the waters of the U.S. within the jurisdiction of a state shall comply with any state requirements (both substantive and procedural) controlling the placing of such material to the same extent any person is subject to such requirements. The Corps' position that this Section only applies to maintenance dredging projects is not explained anywhere in the EIS and in our view is unsupported by the language of the statute itself and the legislative history.

We believe a concern of equal importance is whether there is a true need for Dickey-Lincoln and whether less expensive and less damaging alternatives are available. In our past comments we have requested that the Corps obtain a statement from the New England Power Pool (NEPOOL) as to their view of the need, and we note that this statement was not provided in the Final EIS. One would expect that if there were a true need, NEPOOL would have said so. In the absence of their expert opinion, the Corps has performed its own analysis which we believe

does not demonstrate that this project is needed.

Based on our ongoing review of the New England and national energy situation, and of the Electric Council of New England's 1980 Statistical Bulletin, we believe the facts show that:

New England can expect to carry a 30 percent or better generating reserve even during peak periods through the predictable future without Dickey-Lincoln. A 20 percent reserve capacity is normally considered to be an adequate factor of safety.

While oil displacement is a key concern, the oil which Dickey-Lincoln would displace, that used for peaking power, is a tiny fraction of New England's oil usage, amounting to less than one half of one percent.

There will be significant power losses from the 386 mile long transmission lines. The New England load center is closer to Washington, D.C. than it is to this project. Nearly 10 percent of the electricity will be lost in transmission to the load center and the same amount would be lost as pumping power is transmitted back to the project. In addition, significant adverse environmental impacts will occur as a result of the transmission project alone.

In conclusion, for the reasons stated above and in our past comments, we find that the Dickey-Lincoln project will result in unacceptable environmental impacts, that the need for the project has not been fully justified, that practicable and less damaging alternatives are available, and that the project does not comply with Guidelines issued under Section 404(b)(1) of the Clean Water Act. We further believe that enough information is now available so that no further study of this project is necessary. Finally, in accordance with the Memorandum to Agency Heads from the Chairman, Council on Environmental Quality (November 17, 1980), we request that you include our 404 finding in your transmittal of the Final EIS to Congress.

Sincerely,

WALLACE E. STICKNEY, P.E.,
Director, Environmental Impact Office.

**AUTO THEFT: A COSTLY, GROWING
MENACE**

● Mr. HUDDLESTON. Mr. President, automobile theft is one of the fastest growing crimes in the country with total monetary loss to the American public estimated at \$4 billion per year. What many people think of as a crime committed by teenagers out for a joyride is in reality a crime in which professional auto thieves are taking the American public for a joyride by milking us of tax dollars, forcing higher insurance premiums and raising the price of other consumer goods.

An expert car thief can open and start a car without keys in about 40 seconds. He can either disguise the stolen car with a paint job or other superficial changes, or he can simply get a vehicle identification number—VIN—plate and title from a similar junked car. He switches the plates and can easily sell the vehicle to an unsuspecting buyer either in the same State, or out of State, or overseas.

The fastest growing area of auto theft is the "chop shop" operation where a stolen car is dismantled and the parts resold for far more than the value of the whole car. An efficient chop shop can strip a car in 40 minutes and deliver the parts to a repair shop on a day's notice. This saves the repairer time and money,

yet the full cost of new parts usually is passed on to the consumer bringing in his or her car for repairs. This kind of operation makes it difficult for the legitimate salvage dealer or bodyshop operator to compete.

Profit is just one incentive for entering the auto theft field. The actual chances of being imprisoned for the crime are extremely small. In fact, the Justice Department estimates that only 4 percent of all vehicle thefts result in arrests, much less convictions.

The cost of automobile theft in this country is astronomical. Anyone who buys insurance foots the bill for theft losses because insurance rates reflect the number and dollar value of losses which must be paid from premiums. An insured driver pays part of the cost of a loss through his or her deductible. Today deductibles of \$250, \$500 and even \$1,000 are not unheard of. Moreover, policyholders in higher crime areas pay more than those who live where the theft rate is lower.

This widespread crime cuts into the income of legitimate car dealers, repairment, parts manufacturers and salvage of recyclers. The theft of heavy equipment and large trucks raises the consumer costs for those items. In addition, auto theft profits frequently are siphoned off into other illegal activities such as loan sharking, drug sales and gambling.

As a result, the taxpayer must pick up the tab for police and judicial efforts to curb these crimes and the bill is growing every year.

Almost all insurance companies who write automobile insurance are working on ways to cut theft. Most contribute money and data to support the efforts of the National Automobile Theft Bureau, an organization which employs trained investigators to recover cars stolen from its members. The bureau works closely with local authorities in investigating thefts and has helped expose more than 400 theft rings and prosecute more than 950 ring members.

For the last 5 years, the Kentucky Independent Insurance Agents Association has sponsored an incentive program to encourage police recovery of stolen vehicles. During its first year of operation, State police more than doubled recoveries and tripled arrests.

This kind of program is a good start, but other State and Federal action is needed to cut down on these crimes. My State of Kentucky, considered one of the biggest stolen car dumping grounds in the country because of its lack of a titling law, is working to enact legislation and improve enforcement programs to deal with the problem.

Federal legislation was proposed during the last Congress to help combat auto theft but the measure died with adjournment. Aiming squarely at the "chop shop" operation, the bill would have required permanent, uniform identification on all major car parts. Tampering with those numbers in any way would have been a crime under the bill, as would possession of parts with altered numbers.

The bill also proposed tougher penalties for trafficking in stolen vehicles or

parts and would have expanded the Secretary of the Treasury's authority over illegally exported cars and parts.

Legislation on this order is needed to overcome the problems of interstate and international theft. As it is now, thieves can move from one jurisdiction to another as each State toughens up on their activities.

A vehicle is stolen every 29 seconds in this country, and as long as auto theft is ignored, it will continue to grow. The time has come to take the profit out of auto theft and put some serious risk in. Help is needed from legislators, media, insurers and individuals to make a less attractive environment for the thieves who are costing everyone millions of dollars.

I ask that the material from Kentucky's insurance industry to printed in the RECORD.

The material follows:

KENTUCKIANS CALLED ON TO ASSIST IN FIGHT AGAINST AUTO THEFT

FRANKFORT, February 17.—The commander of the Auto Theft Section of the Kentucky State Police today called for a massive effort by all Kentuckians to help stop automobile theft—a "gold mine" for professional thieves.

Lt. Richard McQuown said, "It is time we stop Kentucky from being a 'gold mine' for organized chop shop operators and join together to drive the professional car thieves out of the Commonwealth."

Thieves made off with 10,000 automobiles in Kentucky in 1979, McQuown noted. He said many of the stolen autos ended up in the hands of the 35 to 40 chop shops operating in Kentucky, reaping millions in profit for professional thieves. Chop shops, McQuown explained, strip cars and trucks and then resell the "spare parts."

McQuown added that the value of an automobile's replacement parts—fenders, hoods, side panels etc.—often is three or four times the value of the original automobile, according to a recent insurance study.

"In cases where the vehicles aren't recovered," Lt. McQuown said, "we aren't talking about teenage joy riders. The cars that disappear forever are those taken by professionals who are part of a \$4 billion-a-year national car theft business."

McQuown pointed out the cost of these stolen autos is not borne by just out-of-luck motorists. "Stolen autos cost all citizens of the state through higher insurance premiums and tax dollars spent to investigate and prosecute offenders."

There are a number of steps each citizen can take to help in the crackdown on the auto thieves, McQuown said. "Don't leave your keys in the ignition. Lock your car. Take the extra time to mark auto parts with your identifying number or personal insignia," he suggested.

"In fact," McQuown said, "Kentucky's state and local police forces will mark motor vehicle parts for all Kentucky citizens upon request." This effort, the Vehicle Identification Program (VIP), is aimed at deterring professional thieves from selling stolen motor vehicle parts without detection.

McQuown said he and the state's insurance industry are working on a long-term effort to crack down on auto theft. "We will not be able to eliminate or even reduce auto theft overnight," he concluded, "but with all Kentuckians working together, we can have a serious impact."

AUTO THEFT: A COSTLY, GROWING MENACE

Does a discussion of auto theft conjure up visions of teenagers hotwiring someone's convertible and going for a joyride? Do you imagine that when the six-packs are empty and the party's over, the kids will abandon

the car, perhaps a bit the worse for wear, where it will easily be found? Do you dismiss auto theft as a boys-will-be-boys caper that merely inconveniences the owner and maybe costs a big insurance company a few dollars from its deep pocket?

If so, you are badly out of touch with reality.

BACKGROUND

Automobile theft has been a problem for as long as there have been autos, but the nature of the crime and the criminals engaged in it have changed dramatically in recent years.

Today, a car is stolen every 29 seconds somewhere in this country. Thieves make off with more than one million vehicles a year, including cars, motorcycles, trucks, farm and other heavy equipment.

No longer confined to the cities, auto theft has become the fastest growing crime in rural America. It is a costly crime as well. The U.S. Department of Justice in 1978 estimated that this criminal activity costs the American public roughly \$4 billion a year of which \$3 billion goes for insurance losses and \$1 billion in criminal justice costs.

While the number of thefts increases annually, the recovery rate is steadily decreasing. Nationally, the recovery rate has dropped from 90 percent in 1960, to 61 percent in 1978. In Kentucky, the recovery rate is significantly lower: only three of every ten stolen vehicles are found despite expanded police efforts to curtail this crime.

These figures mean one thing. Auto theft is no longer dominated by the amateur joyriding teenager. Rather, it is the professional auto thieves who are taking the American public for a joyride, milking them of tax dollars, forcing higher insurance premiums and raising the price of other consumer goods.

Professionals make the cars disappear for good. They disguise or dismantle them for resale here and abroad, and they do so with relative ease, despite the efforts of law enforcement agencies.

EASY

An amateur thief "borrows" a car, uses it and abandons it. A professional thief uses a variety of techniques to make a car vanish permanently.

An expert car thief can open and start a car without keys in about 40 seconds. He may have an order for a specific car type, such as the high-demand prestige vehicles like Mercedes, Cadillacs or Continentals. Or, he may be after a specific part, like a door or a fender. The latest rage is to make off with economy cars.

When he wants the whole car, he can either disguise it with a paint job or other superficial changes, or he can simply get a vehicle identification number (VIN) plate and title from a similar junked car. He switches the plates and can easily sell the vehicle to an unsuspecting buyer either in the same state, out of state or overseas.

If he wants a part, he steals the car and delivers it to a chop shop. There, the car is dismantled and the parts resold for far more than the value of the whole car. This is the fastest growing area of auto theft.

Inflation has driven the price of parts and labor to exorbitant levels. A study by the Alliance of American Insurers shows that the cost of all parts for a new U.S. compact car is \$25,458, \$19,440 more than the invoice cost to the dealer of \$6,018. Chop shops will supply the replacement parts for as little as one-third the cost of new parts, and they can deliver them quickly.

An efficient chop shop can strip a car in 40 minutes and deliver the parts to a repair shop on a day's notice. This will save a delay in time for the repairer and will save him money too, yet the full cost of new parts usually is passed on to the consumer bringing his car in for repairs.

The parts business is the least risky aspect

of this industry because parts rarely are stamped with the identifying VIN number. As a result, they are impossible to trace once removed from the original vehicle.

During Congressional hearings in 1979, Lt. Richard McQuown of the Kentucky State Police testified that 35 to 40 organized vehicle theft rings are operating in the state and about half of those are choppers. He attributed the rise in the chop shops popularity to the "almost endless" supply of easily stolen vehicles and to the demand for crash replacement parts. Lt. McQuown noted that in Kentucky it would take the average body shop 30 to 45 days to order parts for repairing a 1979 Chevrolet Malibu's damaged front end whereas the chop shops could supply it in a day, or two, making it difficult for the legitimate salvage dealer or body shop operator to compete.

He also noted that people who wish to unload a gas guzzler or defective car can turn the vehicle over to a chopper and report it stolen to their insurance companies.

The chop shops are the most lucrative side of the underworld "industry" but even shops that specialize in giving stolen vehicles new identities—the re-tagers—make handsome profits tax free. At the same hearings, a convicted re-tagger told the Senate Permanent Investigations Subcommittee that he made between \$150,000 and \$200,000 a year.

LOW RISK

Profit is just one incentive for entering the auto theft field. The other big plus is the fact that chances of actually being imprisoned for the crime are small. In fact, the U.S. Justice Department estimates that only four percent of all vehicle thefts result in arrests, much less conviction.

Lt. McQuown described cases to the Subcommittee where arrests and prosecution hung on such thin evidence as a hair in a vehicle's paint, bird droppings on the roof of a pickup, and cat tracks on the hood. Without VIN numbers or other uniform types of identification it is almost impossible to identify stolen goods, even if all the signs point that way.

COST

Insurance claimants, and the public in general, should not be apathetic. Claims costs are but one aspect of the price auto theft imposes on consumers.

Anyone who buys insurance foots the bill for theft losses. Insurance rates reflect the number and dollar value of losses which must be paid from premiums. The more often cars are stolen and the more they are worth on today's market, the more premiums will rise since theft accounts for a large percentage of the comprehensive coverage.

In cases where motorists are uninsured, they bear the full loss from theft. But even an insured driver pays part of the cost of a loss through his deductible. Today deductibles of \$250, \$500, and even \$1000 are not unheard of. Moreover, policyholders in higher crime areas pay more than those who live where theft is lower. The result is the same as if an auto thief demanded the extra money directly from the consumer, but instead the extra loss goes unnoticed.

The money gained through stealing motor vehicles cuts into the income of legitimate car dealers, repairmen, parts manufacturers and salvage recyclers. The theft of heavy equipment and large trucks raises the operating costs of many suppliers of goods and services and raises the consumer costs for those items. In addition, auto theft profits frequently are siphoned off into other illegal activities such as loan sharking, drug sales and gambling. A number of recent murders around the country have been traced to organized crime involvement in auto theft as well.

As a result, the taxpayer must pick up the tab for police and judicial efforts to curb these crimes and the bill is growing every year.

There are other invisible costs imposed on individuals and society by auto theft. One is the human toll from accidents. The thief who steals a car is 200 times more likely to have the accident than the owner is, according to the National Automobile Theft Bureau. Auto theft is second only to robbery in causing crime-related absenteeism from work largely because of injuries suffered in these accidents.

Auto theft also is closely allied with other crimes—such as stealing a car and using it as the getaway vehicle after a robbery. It also may turn into the launching pad for a career in crime. A young person's conviction for stealing cars for a joyride or on commission for a professional may lead to more serious criminal acts.

WHAT IS BEING DONE

Almost all insurance companies who write automobile insurance are working on ways to cut theft. Most contribute dollars and data to support the efforts of the NATB. This organization employs trained investigators to recover cars stolen from its 500 members. So far, the NATB staff has located 127,465 vehicles of the 234,254 stolen in 1979. In addition, the Bureau works closely with local authorities in investigating thefts and has helped expose more than 400 theft rings and prosecute more than 950 ring members. Last year, the Bureau trained almost 23,000 police officers in theft investigation techniques and in use of NATB services.

For the last five years the Kentucky Independent Insurance Agents Association has sponsored an incentive program to encourage police recovery of stolen vehicles. The "Screaming Eagle" program was initiated in 1975. During its first year in operation, state police more than doubled recoveries and tripled arrests.

The insurance industry also published and distributes anti-car theft material and has helped sponsor campaigns to prevent this crime in a number of states, including the new program in Kentucky. These efforts include proposals for legislative reforms, awareness campaigns, and training assistance.

WHAT NEEDS TO BE DONE

Federal legislation (S. 1214 and H.R. 4178) was proposed during the 96th Congress to help combat auto theft but the measure died with adjournment. Had it been enacted, the Motor Vehicle Theft Prevention Act would have provided many of the tools necessary to cope with the increased involvement of professional criminals.

Aiming squarely at chop shop operations where organized crime is most active, the bill would have required permanent, uniform identification on all major car parts. This would help eliminate the problem investigators now have in identifying stolen parts once they are removed from a vehicle. Tampering with those numbers in any way also would have been a crime under the bill, as would possession of parts with altered numbers.

The bill also proposed tougher penalties for trafficking in stolen vehicles or parts. These included a fine of up to \$10,000 and five years in prison because those prosecuted could be tried under the Racketeer Influenced and Corrupt Organizations (RICO) Statute.

Because so many cars and parts are being illegally exported, the bill would have expanded the Secretary of Treasury's authority over exports and given the U.S. Customs Service arrest powers. In addition, the measure permitted issuance of a federal safety standard requiring car manufacturers to improve vehicle security systems.

Legislation on this order must be passed to overcome the problems of interstate and international theft. As it is now, thieves can move from one jurisdiction to another as each state toughens up on their activities. Insurers and law enforcement officials have supported this measure actively and will undoubtedly strive to have it reintroduced when the new Congress convenes in January, 1981.

STATES

The states should require all business dealing with salvaged cars and parts to be licensed and to maintain careful records and inventories. The states also could make sure that these inventories and records are available to investigators and require that VINs be stamped on all major parts.

Also helpful would be immunity laws to protect people or organizations who report theft information to police. Such a law would protect against civil suits from suspected thieves.

One big problem Kentucky has in fighting auto thefts is its lack of a titling law. This situation makes Kentucky an ideal place for professional rings to set up operations. What is needed is a requirement for an alter-proof title. Illinois has developed such a title and created a unit within the Secretary of State's office to check for title alterations. Since the titles cannot be tampered with without destroying the printed information on them, thieves lose a valuable tool to making cars look legitimate. Neither can they switch a title on a salvaged vehicle to a stolen car in order to disguise it.

On the enforcement side, states could impose mandatory sentences for repeat offenders and restitution for damage done in a theft. By making false theft reports a criminal offense, states could help curb fraudulent claims on phantom cars and on cars junked by their owners for the insurance payment. States also could toughen penalties for causing death or injury with a stolen car or for fleeing police at high speed in a stolen vehicle.

Finally, states like Kentucky can bolster their police units and offer special training in theft investigation. Moreover, they could give police greater authority in seizing vehicles believed to be stolen or re-tagged.

INSURERS

Insurance companies that have not already done so should institute new procedures to help protect against fraud and to trace stolen vehicles. These would include a special anti-fraud unit to inspect claims for signs of fraud, requiring agents to inspect cars before insuring them, and reporting stolen cars immediately to the NATB. They also can participate in and organize anti-theft campaigns and develop more careful procedures for disposing of salvaged vehicles.

INDIVIDUALS

It may seem impossible to stop the professional car thief when he can break into almost any car in seconds. But if nothing else, a motorist can slow him down with anti-theft devices.

The most important anti-theft device is your key. Lock your car even in front of your house. Never leave your car running while dashing into a store, close windows tightly when parking and turn front wheels sharply to make towing difficult. Park in a locked garage when possible and try to avoid parking lots where you have to leave the keys. Keep your title and registration in a safe place. They can be stolen and used to make a "hot" car legitimate. Engrave your vehicle identification in hard-to-find places on the car to ease identification if it is stolen. Consider installing theft deterrents.

Encourage police and government activities to deter auto theft and assist by keeping an eye out for suspicious "hot deals" on cars.

A fresh paint job on a late-model car is a tip off as is a seller who doesn't have manufacturer-made keys. Report any suspicious circumstances to police immediately. People who can not resist a "bargain" have ended losing both the stolen car and the money they paid for it.

SUMMARY

As long as auto theft is ignored, it will continue to grow. The time has come to take the profit out of auto theft in Kentucky and put some serious risk in. The police are trying but they need help from legislators, media, insurers and individuals to make this state a less attractive environment for the thieves who are costing everyone millions of dollars.●

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 October 1, 1981, was 229,872,795. This represents an increase of 206,444 since September 1, 1981. In 1 short month we have added enough people to our population to more than fill the city of Fresno, Calif.

Currently in the United States, there is approximately one birth every 9 seconds and one death every 16 seconds. One immigrant enters this country every 60 seconds and one emigrant leaves every 15 minutes. This results in an addition of one person to our population every 16 seconds.●

YURI FEDEROV AND ALEXEI MURZHENKO

● Mr. NICKLES. Mr. President, as part of the congressional vigil for Soviet Jews, I would like to add my voice to many of my distinguished colleagues in behalf of the persecuted, the silenced, and the imprisoned in the Soviet Union. Specifically, I would like to call attention to the plight of Yuri Federov and Alexei Murzhenko, both prisoners of the Perm labor camp since 1970.

Federov and Murzhenko were sentenced to the labor camp 11 years ago after attempting to fly a plane to Israel. Murzhenko currently suffers from tuberculosis; Federov, from chronic nephritis coupled with an ulcer. Neither receive medication, a special diet, nor relief from the strenuous work required of prisoners. Their families fear that they will not survive the remaining 3 to 4 years of their sentence.

It is difficult for us in the West to comprehend a restriction on the basic freedom of travel, much less such lack of sensitivity for the preservation of human life. Mr. President, I am sure that all Members will join me in publicly urging Soviet authorities to release these two prisoners.●

TYKE PEACOCK—A GREAT HIGH JUMPER

● Mr. DIXON. Mr. President, I would like to take this opportunity to call to the attention of my colleagues the outstanding athletic achievements of Mr. Tyke Peacock, who is a native of Urbana, Ill., in Champaign County.

Mr. Peacock is a young man of 20 years, and so his career as a high jumper, we all expect, will flourish for some time to come. But that career reached its current height—literally—on September 6, in Rome, Italy, when he defeated a nine-man field from all over the globe, and jumped 7 feet, 5¾ inches to win the World Cup Games for himself and for the United States.

Mr. Peacock has shown steady and excellent improvement in his career. He has added more than a foot to his best jump in the past 5 years.

He first came to prominence as a great jumper for Urbana High School, then won the California State junior college title competing for Modesto Junior College, and owns the national junior college high jump record. He now competes and I point this out most painfully, for the University of Kansas.

Mr. President, on October 17, in his hometown, Tyke Peacock will be honored with a "day" sponsored by Urbana Downtown Promotions.

His family and friends will join him on that happy occasion to take note of his accomplishments.

I join them in their celebration, and send along my own congratulations to Mr. Peacock on what he has already achieved, and wish him the best of luck in his future undertakings.●

TOWARD A RATIONAL FOOD SAFETY POLICY

● Mr. HATCH. Mr. President, there is quiet on the food safety front. No imminent crises. No public alarms. No important food substances about to be removed from our dinner tables. On June 25, Congress eagerly agreed for the third time in 4 years to extend the date of the moratorium on FDA's previously proposed ban of saccharin for an additional 2 years. In addition, the scientific evidence on nitrates has been examined and the initial fears about its potential toxicity have been assuaged, letting bacon remain on our breakfast table, at least for the moment.

Yet the momentous task of reexamining the broader questions of food safety policy remain. Four years ago, amidst the tumultuous public reaction against the proposed saccharin ban, Congress defused the situation by postponing revision of the food safety laws in lieu of further study it requested to be conducted by the National Academy of Sciences. This study having since been concluded, NAS's findings include recommending an overhaul of the food safety laws currently enacted. In the view of NAS, "the law has become complicated, inflexible and inconsistent in implementation . . . [and] is inadequate to meet changing and increasing problems of food safety." Under the Carter administration, the FDA's Task Force on Food Safety advocated significant revision of the statute. In fact, the General Accounting Office recently completed a survey of former FDA commissioners revealing a strong consensus for major reform.

But what reform? I recently intro-

duced S. 1442, The Food Safety Amendments of 1981, as one way to revise and update the food safety law. Of course, I recognize that in this scientifically and legally complex area, which so directly affects U.S. public health policy, no single legislative proposal has a monopoly on reasonableness. Every alternative ought to be examined. Unfortunately, the debate on food safety has in the past been less than dispassionate. Too many consumer groups and food processors have been raining invective on each other. At the center of this storm is the Delaney clause, requiring that any substance shown to induce cancer in man or animals be banned whether or not there are any benefits associated with its use. Nor is an exception made for substances found in such infinitesimal amounts so as to present the most insignificant risk to humans.

In the past, combatants in the food safety war were either fighting for the Delaney clause or against it. What in fact is needed is some fine tuning. The basic purpose of the Delaney clause represents sound public policy. No substance should be added directly to food if it is a carcinogen.

How should substances like saccharin be regulated? Applying a rigid inflexible rule to a substance that has been in use for decades and for which there are no available substitutes is at best shortsighted. For diabetics and others who cannot eat sugar, cutting off their only viable substitute sweetener is unfair. Some consideration of benefits is necessary for those substances to which we have grown accustomed and cannot easily replace.

Reasoned decisionmaking is even more crucial in decisions affecting the supply and marketing of our basic foods. Natural nutrients found in foods like potatoes, onions, and black pepper have been implicated as potential carcinogens. Essential nutrients such as selenium, vitamin D, and calcium, substances required by humans in our diet, act in high doses as carcinogens. The logical extension of implementing the current law as written would lead to banning these most basic foods by FDA. Fortunately, FDA has chosen the more prudent course of action and ignored the statute.

Yet the law should not be merely an option or a suggestion which a Federal agency can accept or reject with impunity. Laws are normative, which means they not only tell us what we can and cannot do, but set standards reflecting what a consensus of us in the community consider reasonable policy. Right now, the Delaney clause as a law which provides for summarily banning foods without any recourse or appeal is not reasonable. A failure to revise this law not only questions the legitimacy of our Nation's food safety policy, but violates the integrity of the legal process itself.

Our revision of it should keep pace with scientific advancements. Scientists can now detect traces of potentially harmful substances at parts per trillion—a million fold increase in analytical sensitivity compared with the meth-

ods available 20 years ago when the De-laney clause was conceived and the law was last examined. Traces of such sub-stances are being found throughout our food supply in very minute quantities. Attempting to eliminate all these food substances not only threatens the quan-tity of our national food inventory, but promises only the most nominal impact in our common cause to improve the public health.

Keeping our food supply safe is of the highest priority. Yet some degree of risk is inherent. Zero risk has been proven to be impossible to achieve. The FDA must focus its resources on eliminating those risks that have a potential for actually harming humans. Trivial or speculative risks should not be regulated.

Revision of the food safety laws is only the first step in assuring the Amer-ican people a safe and plentiful food supply. Increasing our knowledge by sup-porting research in the fields of nutri-tion and disease prevention is of equal importance. For only if sound and reli-able information is available can con-sumers, industry, and FDA make in-formed and rational decisions.●

ORDERS FOR WEDNESDAY

Mr. BAKER. Mr. President, in a mo-ment I will ask unanimous consent that the Senate stand in adjournment until tomorrow, Wednesday, October 7. But be-fore I do that, I ask unanimous consent that when the Senate reconvenes on Wednesday, October 7, the reading of the Journal be dispensed with, no resolution, over under the rule, the call of the cal-endar be dispensed with, and following the time allocated to the two leaders under the standing order, there be a pe-riod for the transaction of routine morn-ing business not to exceed 30 minutes in length and that Senators may be per-mitted to speak therein for not more than 5 minutes each.

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

ORDER FOR ADJOURNMENT UNTIL 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in adjournment until the hour of 11 a.m. tomorrow, Wednesday, October 7, 1981.

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

ORDER FOR THE RECOGNITION OF SENATOR LUGAR AND SENATOR HARRY F. BYRD, JR.

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, there be spe-cial orders in favor of the Senator from Indiana (Mr. LUGAR) and the senior Sen-ator from Virginia (Mr. HARRY F. BYRD, Jr.) of not to exceed 15 minutes in length.

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

Mr. BAKER. Mr. President, if the Chair will indulge for a brief moment while I examine the file on my desk I can make a further announcement in respect to the program of the Senate.

Mr. President, I know of no further business to transact this evening.

I inquire of the minority leader is there any other matter he wishes to ad-dress to the Senate?

Mr. ROBERT C. BYRD. Mr. President, could the distinguished majority leader state again whether or not he would anticipate completing action on the tele-communications bill tomorrow and, if so, what he would have in mind for the remainder of the day up until 3 p.m.?

Mr. BAKER. Yes. Mr. President, I thank the minority leader. I should have reviewed the agenda of the Senate for tomorrow.

PROGRAM

Mr. BAKER. Mr. President, on to-morrow the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order, the recognition of the two Senators on spe-cial orders, and a period for the trans-action of routine morning business, the Senate will resume consideration of S. 898, the telecommunications bill.

It is the hope and it is the expectation of the leadership that that measure will be completed tomorrow and will be completed in fairly short order.

Mr. President, I hope that after the telecommunications bill is completed the Senate can turn briefly to the considera-tion of the social security bill, so-called. I would not anticipate time will permit more than opening statements and lim-ited debate for it is not the intention of the leadership to ask the Senate to en-gage in rollcall votes after 3 p.m. tomorrow.

It is possible that the Senate will go substantially beyond 3 p.m. with debate and other matters, not late, however, and not past the normal adjournment or recess hour. But there will be no roll-call votes after approximately 3 p.m. That time might shift a little bit in order to accommodate the circumstances of that moment.

But I urge Senators to try to complete the communications bill well in advance of the 3 p.m. time I have just assigned or just suggested so that we will have time to begin on the social security bill before we go out for the week's recess.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move now, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 a.m. tomorrow.

The motion was agreed to; and, at 6:43 p.m., the Senate adjourned until Wednesday, October 7, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1981:

DEPARTMENT OF STATE

Geoffrey Swaebe, of California, to be the Representative of the United States of Amer-ica to the European Office of the United Nations, with the rank of Ambassador.

CIVIL AERONAUTICS BOARD

Clinton Dan McKinnon, of California, to be a Member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1985, vice Marvin S. Cohen, resigned.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indi-cated, under the provisions of section 531, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be lieutenant colonel

- Allen, Theodore M., xxx-xx-xxxx
Alvey, Dennis H., xxx-xx-xxxx
Anderson, Charles E., xxx-xx-xxxx
Anderson, Kenneth R., xxx-xx-xxxx
Anderson, Michael G., xxx-xx-xxxx
Armourlightner, Rosetta A., xxx-xx-xxxx
Armstrong, Gordon S., xxx-xx-xxxx
Asmus, John J., Jr., xxx-xx-xxxx
Baber, Jerry W., xxx-xx-xxxx
Baker, John E., xxx-xx-xxxx
Baker, Robert L., xxx-xx-xxxx
Baker, Roy B., III, xxx-xx-xxxx
Barrett, Owen M., xxx-xx-xxxx
Bayha, Carl F., Jr., xxx-xx-xxxx
Bayless, William E., xxx-xx-xxxx
Bennett, George R., xxx-xx-xxxx
Bettner, Donald J., xxx-xx-xxxx
Beyer, Mary D., xxx-xx-xxxx
Blackburn, Thomas R., xxx-xx-xxxx
Blair, Richard S., xxx-xx-xxxx
Blass, Lawrence, xxx-xx-xxxx
Blocker, Phil, xxx-xx-xxxx
Bloss, James F., xxx-xx-xxxx
Bogan, Robert L., xxx-xx-xxxx
Bolick, Carl A., Jr., xxx-xx-xxxx
Bone, James A., xxx-xx-xxxx
Bottorff, Garald L., xxx-xx-xxxx
Bourgeois, Paul J., xxx-xx-xxxx
Bovenkerk, Paul E., xxx-xx-xxxx
Brand, Roderick P., xxx-xx-xxxx
Breese, Richard P., xxx-xx-xxxx
Brenzel, Robert C., xxx-xx-xxxx
Bridges, James E., xxx-xx-xxxx
Bright, Burton K., xxx-xx-xxxx
Brown, Gene E., xxx-xx-xxxx
Brown, J. T., xxx-xx-xxxx
Brown, James E., Jr., xxx-xx-xxxx
Burch, Michael I., xxx-xx-xxxx
Bustamante, Elizabeth L., xxx-xx-xxxx
Butler, Darrell P., xxx-xx-xxxx
Butler, Jay M., xxx-xx-xxxx
Byrd, Henry C., Jr., xxx-xx-xxxx
Byrd, Jack R., xxx-xx-xxxx
Cameron, Robert F., xxx-xx-xxxx
Campana, Augustine F., xxx-xx-xxxx
Canfield, James E., xxx-xx-xxxx
Capito, David A., xxx-xx-xxxx
Carlile, Billy R., xxx-xx-xxxx
Carlson, Myron R., xxx-xx-xxxx
Carlson, Roger W., xxx-xx-xxxx
Carucci, Michael J., xxx-xx-xxxx
Ceacle, William J., xxx-xx-xxxx
Chambers, Corwin E., xxx-xx-xxxx
Christianson, Don R., xxx-xx-xxxx
Christoffersen, Neil J., xxx-xx-xxxx
Claytor, Richard L., xxx-xx-xxxx
Clutter, James W., xxx-xx-xxxx
Coladarci, Barbara, xxx-xx-xxxx
Collins, William A., xxx-xx-xxxx
Collmer, Philip R., Jr., xxx-xx-xxxx
Coniglio, Joseph G., xxx-xx-xxxx
Connelley, James M., xxx-xx-xxxx
Conner, William L., xxx-xx-xxxx
Cooke, Douglas W., xxx-xx-xxxx
Cooper, Charles R., xxx-xx-xxxx
Coronado, Gil, Jr., xxx-xx-xxxx
Cronan, William C., xxx-xx-xxxx
Crumph, Ronald H., xxx-xx-xxxx
Curry, Robert G., xxx-xx-xxxx
Cutler, Willard M., Jr., xxx-xx-xxxx
Daboll, Louis F., Jr., xxx-xx-xxxx
Dargue, James H., xxx-xx-xxxx
Davis, Edward P., xxx-xx-xxxx
Davis, Robert S., xxx-xx-xxxx
Davis, William E., xxx-xx-xxxx

Davis, Woodrow E., Jr. xxx-xx-xxxx
 Deconti, Richard C. xxx-xx-xxxx
 Delaino, William E., Jr. xxx-xx-xxxx
 Dellinger, Joseph P. xxx-xx-xxxx
 Deluca, Robert xxx-xx-xxxx
 Denis, Philippe, C. J. xxx-xx-xxxx
 Depree, Donald C. xxx-xx-xxxx
 Derebery, Daniel P., Jr. xxx-xx-xxxx
 Dermody, William E., Jr. xxx-xx-xxxx
 Dickinson, John Y., III xxx-xx-xxxx
 Dittberner, Gerald J. xxx-xx-xxxx
 Donaldson, David L. xxx-xx-xxxx
 Dorris, John W. xxx-xx-xxxx
 Doty, Gary L. xxx-xx-xxxx
 Doughty, Benjamin T., Jr. xxx-xx-xxxx
 Dowd, William F. xxx-xx-xxxx
 Downer, David R. xxx-xx-xxxx
 Drane, Melvin E., III xxx-xx-xxxx
 Drazuszewski, Joseph C. xxx-xx-xxxx
 Drew, Vernon O., Jr. xxx-xx-xxxx
 Duffey, John G., Jr. xxx-xx-xxxx
 Dunlap, Ralph N. xxx-xx-xxxx
 Dwyer, Denis J. xxx-xx-xxxx
 Dzialo, Walter F. xxx-xx-xxxx
 Edick, Floyd K. xxx-xx-xxxx
 Edwards, Jerry M. xxx-xx-xxxx
 English, William H., Jr. xxx-xx-xxxx
 Ernst, Larry M. xxx-xx-xxxx
 Evans, Gerald D. xxx-xx-xxxx
 Farias, Matias xxx-xx-xxxx
 Ferguson, Reeser S., Jr. xxx-xx-xxxx
 Fiederer, Nancy E. xxx-xx-xxxx
 Fiegel, David A. xxx-xx-xxxx
 Fischer, Joseph W. xxx-xx-xxxx
 Fisher, Darel R. xxx-xx-xxxx
 Flook, Gerald L. xxx-xx-xxxx
 Foley, David D. xxx-xx-xxxx
 Ford, Jesse J., Jr. xxx-xx-xxxx
 Frausto, Julio, Jr. xxx-xx-xxxx
 Freed, Ronald D. xxx-xx-xxxx
 Freund, Donald W. xxx-xx-xxxx
 Frye, Donald E. xxx-xx-xxxx
 Fuller, Richard L. xxx-xx-xxxx
 Galindo, Raymond xxx-xx-xxxx
 Gallego, Louis V. xxx-xx-xxxx
 Gere, David A. B. xxx-xx-xxxx
 Gibson, William H. xxx-xx-xxxx
 Gniadek, Edward J. xxx-xx-xxxx
 Gomez, Daniel xxx-xx-xxxx
 Goodwin, William S. xxx-xx-xxxx
 Gordon, Massalena M. xxx-xx-xxxx
 Gott, Robert L. xxx-xx-xxxx
 Grace, Dennis C. xxx-xx-xxxx
 Graham, Alex L. xxx-xx-xxxx
 Grau, David W. xxx-xx-xxxx
 Green, Edgar A., Jr. xxx-xx-xxxx
 Green, Leroy W. xxx-xx-xxxx
 Green, Thomas A. xxx-xx-xxxx
 Greves, John H. xxx-xx-xxxx
 Grimsley, John C. xxx-xx-xxxx
 Gruhn, Jeremy J. xxx-xx-xxxx
 Grybko, Richard J. xxx-xx-xxxx
 Guetig, Donald A. xxx-xx-xxxx
 Gullett, Jeffrey L. xxx-xx-xxxx
 Gunn, Earnest L. xxx-xx-xxxx
 Gurner, Roger A. xxx-xx-xxxx
 Hagberg, Russell C. xxx-xx-xxxx
 Hamada, Richard K. xxx-xx-xxxx
 Hamilton, James P. xxx-xx-xxxx
 Hamilton, James R., Jr. xxx-xx-xxxx
 Han, Melvin T. S. xxx-xx-xxxx
 Hanner, Larry F. xxx-xx-xxxx
 Hanstad, Richard K. xxx-xx-xxxx
 Harry, Maxey L. xxx-xx-xxxx
 Harris, John H., III xxx-xx-xxxx
 Hart, Don F. xxx-xx-xxxx
 Hartman, John E. xxx-xx-xxxx
 Hayslett, Hilbert H., Jr. xxx-xx-xxxx
 Hengel, Raymond J. xxx-xx-xxxx
 Hennessy, Ellen A. xxx-xx-xxxx
 Hennessy, John M. xxx-xx-xxxx
 Henry, John E. xxx-xx-xxxx
 Hicks, Jackie L. xxx-xx-xxxx
 Hidden, James G. xxx-xx-xxxx
 Higbie, Richard M. xxx-xx-xxxx
 Hightower, Jerry B. xxx-xx-xxxx
 Hoffman, Peter V. xxx-xx-xxxx
 Hoen, John A. xxx-xx-xxxx
 Holder, William W. xxx-xx-xxxx
 Hollobaugh, Gordon F. xxx-xx-xxxx
 Hosmer, Philip C. xxx-xx-xxxx

Howayeck, Michael J. xxx-xx-xxxx
 Howe, Jack S. xxx-xx-xxxx
 Hubbard, Charles R. xxx-xx-xxxx
 Hufford, Berle K., Jr. xxx-xx-xxxx
 Hughes, Albert E., Jr. xxx-xx-xxxx
 Huhn, Aaron M. xxx-xx-xxxx
 Hulen, Dennis E. xxx-xx-xxxx
 Hull, Edwar L. xxx-xx-xxxx
 Hurlbut, Edmund W. xxx-xx-xxxx
 Ibsch, William H. xxx-xx-xxxx
 Jacobson, Robert A. xxx-xx-xxxx
 Johnson, Floyd E. xxx-xx-xxxx
 Johnson, Jimmy N. xxx-xx-xxxx
 Johnson, Thomas R. xxx-xx-xxxx
 Johnston, William B., Jr. xxx-xx-xxxx
 Joines, Jack L. xxx-xx-xxxx
 Jones, Marvin G. xxx-xx-xxxx
 Justice, Dale S. xxx-xx-xxxx
 Kamper, William A. xxx-xx-xxxx
 Kane, Francis E. xxx-xx-xxxx
 Kauffman, William D. xxx-xx-xxxx
 Kaye, Robert xxx-xx-xxxx
 Keene, David V. xxx-xx-xxxx
 Kelley, Francis J. xxx-xx-xxxx
 Kelley, Larry J. xxx-xx-xxxx
 Kelnhofer, Joseph T. xxx-xx-xxxx
 Kenny, Robert J. xxx-xx-xxxx
 Keough, James P. xxx-xx-xxxx
 King, Wayne D. xxx-xx-xxxx
 Knam, Stephen B. xxx-xx-xxxx
 Kosak, Robert Jr. xxx-xx-xxxx
 Kossmann, Randolph I. xxx-xx-xxxx
 Kost, Frederick J. xxx-xx-xxxx
 Koters, Howard C. xxx-xx-xxxx
 Kretlow, Thomas E. xxx-xx-xxxx
 Kruschwitz, Albert M., Jr. xxx-xx-xxxx
 Kuzminski, Robert B. xxx-xx-xxxx
 Laird, Norman S. xxx-xx-xxxx
 Landry, Charles D. xxx-xx-xxxx
 Laslo, Alexander J. xxx-xx-xxxx
 Lawton, William P., III xxx-xx-xxxx
 Leedle, Donald E. xxx-xx-xxxx
 Lees, Richard J. xxx-xx-xxxx
 Lehman, Harry A. xxx-xx-xxxx
 Lemen, William R. xxx-xx-xxxx
 Leppa, Larry D. xxx-xx-xxxx
 Lersfeld, Marvin D. xxx-xx-xxxx
 Levesque, David A. xxx-xx-xxxx
 Levy, Michael D. xxx-xx-xxxx
 Libsack, Gerald H. xxx-xx-xxxx
 Liebsack, Richard E. xxx-xx-xxxx
 Liggins, Arthur T. xxx-xx-xxxx
 Lindeke, Ronald C. xxx-xx-xxxx
 Lingenfelter, Jack K. xxx-xx-xxxx
 Linton, William, Jr. xxx-xx-xxxx
 Locke, John E. xxx-xx-xxxx
 Lockhart, Charles E., Jr. xxx-xx-xxxx
 Lockwood, Phillip D. xxx-xx-xxxx
 Logan, Edward C. xxx-xx-xxxx
 Look, Horace H. xxx-xx-xxxx
 Loucks, Justin E. xxx-xx-xxxx
 Lupton, David E. xxx-xx-xxxx
 Lystlund, James R. xxx-xx-xxxx
 MacAllister, Roderick D. xxx-xx-xxxx
 Mack, Oliver T. xxx-xx-xxxx
 Maddox, Roscoe xxx-xx-xxxx
 Mahar, John J. xxx-xx-xxxx
 Mallar, John L. xxx-xx-xxxx
 Mallets, Thomas J. xxx-xx-xxxx
 Malmoe, Thomas B. xxx-xx-xxxx
 Mancuso, Lawrence E. xxx-xx-xxxx
 Maniscalco, Christopher N. xxx-xx-xxxx
 Martin, Charles E. xxx-xx-xxxx
 Maryanow, Maurice xxx-xx-xxxx
 Masek, Edward V. xxx-xx-xxxx
 Masenheimer, Philip G. xxx-xx-xxxx
 Matassov, George xxx-xx-xxxx
 McAndrew, William H. xxx-xx-xxxx
 McCarty, Michael L. xxx-xx-xxxx
 McCaw, Robert H. xxx-xx-xxxx
 McClelland, David H. xxx-xx-xxxx
 McCrabb, Donald G. xxx-xx-xxxx
 McGuire, George G. xxx-xx-xxxx
 McKechney, William J. xxx-xx-xxxx
 McKibben, George E. xxx-xx-xxxx
 McKimney, Jerry L. xxx-xx-xxxx
 McMichael, George W., Jr. xxx-xx-xxxx
 McNamara, Dan C. xxx-xx-xxxx
 Meadows, Charles D. xxx-xx-xxxx
 Meesig, Robert T. xxx-xx-xxxx
 Meyer, George E., Jr. xxx-xx-xxxx

Michalowski, Thomas J. xxx-xx-xxxx
 Miles, Joan C. xxx-xx-xxxx
 Miller, Harold W., Jr. xxx-xx-xxxx
 Miller, James J. xxx-xx-xxxx
 Miranda, Eugene F. xxx-xx-xxxx
 Mitchell, Timothy L. xxx-xx-xxxx
 Molnar, John M. xxx-xx-xxxx
 Molyneaux, William L. xxx-xx-xxxx
 Moore, Donald W. xxx-xx-xxxx
 Morgan, Daniel L. xxx-xx-xxxx
 Morris, James L. xxx-xx-xxxx
 Morrison, John A., Jr. xxx-xx-xxxx
 Morrissey, Kathleen E. xxx-xx-xxxx
 Moss, Dennis D. xxx-xx-xxxx
 Murphy, Joseph E., Jr. xxx-xx-xxxx
 Murphy, Thomas D. xxx-xx-xxxx
 Musmanno, Victor H. xxx-xx-xxxx
 Nagy, Norbert S. xxx-xx-xxxx
 Nevin, Richard xxx-xx-xxxx
 Newton, Jack M. xxx-xx-xxxx
 Noack, Leonard A. xxx-xx-xxxx
 Noblitt, Richard C., Jr. xxx-xx-xxxx
 Norman, Charles M. xxx-xx-xxxx
 Nunn, James R. xxx-xx-xxxx
 Nye, Larry E. xxx-xx-xxxx
 Ohlsen, John W. xxx-xx-xxxx
 Orourke, Gerald M. xxx-xx-xxxx
 Orsini, Joseph A. xxx-xx-xxxx
 Owens, Dennie L. xxx-xx-xxxx
 Pahoresky, Herbert J. xxx-xx-xxxx
 Pallex, Robert G. xxx-xx-xxxx
 Pannage, Charles M., Jr. xxx-xx-xxxx
 Paquette, James E. xxx-xx-xxxx
 Parish, Anson G. xxx-xx-xxxx
 Parker, Thomas A. xxx-xx-xxxx
 Parkinson, Thomas H., II xxx-xx-xxxx
 Parnell, Charles R. xxx-xx-xxxx
 Patterson, Charles W. xxx-xx-xxxx
 Pavone, John W., Jr. xxx-xx-xxxx
 Payne, David L. xxx-xx-xxxx
 Payne, Kenneth L. xxx-xx-xxxx
 Pearce, James P. xxx-xx-xxxx
 Pearce, William M., Jr. xxx-xx-xxxx
 Peot, Thomas E. xxx-xx-xxxx
 Perkins, Larry F. xxx-xx-xxxx
 Peterson, Richard W. xxx-xx-xxxx
 Pettengill, Arthur S. xxx-xx-xxxx
 Philliber, Neil P. xxx-xx-xxxx
 Phillips, David H. xxx-xx-xxxx
 Pickering, Willis O., Jr. xxx-xx-xxxx
 Piffarero, Pierre A. xxx-xx-xxxx
 Porter, Charles P. xxx-xx-xxxx
 Porter, Harl M. xxx-xx-xxxx
 Pratt, Bruce S. xxx-xx-xxxx
 Pray, Harold L. xxx-xx-xxxx
 Purdy, Frank K., Jr. xxx-xx-xxxx
 Putnam, Jerald L. xxx-xx-xxxx
 Putters, James E. xxx-xx-xxxx
 Raboin, Edward J. xxx-xx-xxxx
 Raper, Richard O. xxx-xx-xxxx
 Redman, James S. xxx-xx-xxxx
 Reed, David, Jr. xxx-xx-xxxx
 Reinhard, James T. xxx-xx-xxxx
 Remley, Carl E. xxx-xx-xxxx
 Rice, Johnny R. xxx-xx-xxxx
 Richards, Stephen M. xxx-xx-xxxx
 Risk, Daniel W. xxx-xx-xxxx
 Roberts, George E. xxx-xx-xxxx
 Robinson, Ronald J. xxx-xx-xxxx
 Rochester, James S. xxx-xx-xxxx
 Roeder, Charles R. xxx-xx-xxxx
 Rogala, Frank A., Jr. xxx-xx-xxxx
 Rogers, Jasper H., Jr. xxx-xx-xxxx
 Rondholz, Frederick W. xxx-xx-xxxx
 Rose, Galen J. xxx-xx-xxxx
 Ross, James L. xxx-xx-xxxx
 Rowe, Palmer W., Jr. xxx-xx-xxxx
 Roy, Osborne J., Jr. xxx-xx-xxxx
 Rudy, James D. xxx-xx-xxxx
 Sabeau, William E. xxx-xx-xxxx
 Salinas, Gilberto, Jr. xxx-xx-xxxx
 Samuels, Lewis M. xxx-xx-xxxx
 Sato, Rodney T. xxx-xx-xxxx
 Scarborough, Bobby A. xxx-xx-xxxx
 Schaub, Paul H. xxx-xx-xxxx
 Schellenger, Raymond D. xxx-xx-xxxx
 Schlegel, John B. xxx-xx-xxxx
 Schleicher, Donald W. xxx-xx-xxxx
 Schmarje, David P. xxx-xx-xxxx
 Schmitt, Arthur E. xxx-xx-xxxx
 Schowalter, Henry N. xxx-xx-xxxx
 Schubert, Norman L. xxx-xx-xxxx

Schulze, Harry D. xxx-xx-xxxx
 Schutz, Van W. xxx-xx-xxxx
 Scredon, Richard M. xxx-xx-xxxx
 Searle, Ronald L. xxx-xx-xxxx
 Seymour, Francis J., Jr. xxx-xx-xxxx
 Shady, Norman D. xxx-xx-xxxx
 Shaunessy, James P. xxx-xx-xxxx
 Shea, William J. xxx-xx-xxxx
 Shinnpaugh, John A. xxx-xx-xxxx
 Sidwell, David A. xxx-xx-xxxx
 Simcoe, Larry P. xxx-xx-xxxx
 Simms, Robert A., Jr. xxx-xx-xxxx
 Simon, Ross J. xxx-xx-xxxx
 Simon, William E., Jr. xxx-xx-xxxx
 Simpson, Cleveland xxx-xx-xxxx
 Simpson, Harold J. xxx-xx-xxxx
 Simpson, James C. xxx-xx-xxxx
 Slater, Robert E. xxx-xx-xxxx
 Sleight, Leo M. xxx-xx-xxxx
 Smith, Charles E. xxx-xx-xxxx
 Smith, Orville L. xxx-xx-xxxx
 Snell, Richard D. xxx-xx-xxxx
 Soares, Daniel C. xxx-xx-xxxx
 Soves, Andrew P. xxx-xx-xxxx
 Stadheim, Terrance F. xxx-xx-xxxx
 St. Clair, Robert G. xxx-xx-xxxx
 Steblay, Louis A. xxx-xx-xxxx
 Steele, Donald L. xxx-xx-xxxx
 Stegenga, Peter, Jr. xxx-xx-xxxx
 Steinhart, Robert J. xxx-xx-xxxx
 Stewart, Robert C. xxx-xx-xxxx
 Stillwell, Charles E. xxx-xx-xxxx
 Stovall, Robert L. xxx-xx-xxxx
 Striegel, Robert L. xxx-xx-xxxx
 Sullivan, Regis A. xxx-xx-xxxx
 Svoboda, Leroy E. xxx-xx-xxxx
 Sweeting, Gerald W. xxx-xx-xxxx
 Swinarsky, Gerald xxx-xx-xxxx
 Tagnesi, John P. xxx-xx-xxxx
 Thomas, Anthony W. xxx-xx-xxxx
 Thompson, Richard L. xxx-xx-xxxx
 Thornton, Richard M. xxx-xx-xxxx
 Tisdale, David W., Jr. xxx-xx-xxxx
 Toman, Ronald G. xxx-xx-xxxx
 Tomola, James A. xxx-xx-xxxx
 Topping, Mickey L. xxx-xx-xxxx
 Torre, Rocco J. xxx-xx-xxxx
 Tracy, John L. xxx-xx-xxxx
 Travis, Robert L. xxx-xx-xxxx
 Umberger, James S. xxx-xx-xxxx
 Vanderslik, Richard J. xxx-xx-xxxx
 Vasquez, Jesse S. xxx-xx-xxxx
 Vaughan, Louis M. xxx-xx-xxxx
 Voxland, Michael D. xxx-xx-xxxx
 Wade, William E. xxx-xx-xxxx
 Wadell, James A. xxx-xx-xxxx
 Wagner, Jon G. xxx-xx-xxxx
 Walling, Darrell H. xxx-xx-xxxx
 Wallisch, William J., Jr. xxx-xx-xxxx
 Walsh, Robert B. xxx-xx-xxxx
 Ward, Clarence E. xxx-xx-xxxx
 Ward, Gerald M. xxx-xx-xxxx
 Warniment, Daniel A. xxx-xx-xxxx
 Watson, Robert N. xxx-xx-xxxx
 Way, Carolyn E. L. xxx-xx-xxxx
 Wedra, Arthur H. xxx-xx-xxxx
 Welkel, John D. xxx-xx-xxxx
 Welch, Guy F. xxx-xx-xxxx
 Welch, Russell C. xxx-xx-xxxx
 Wheeler, Steven E. xxx-xx-xxxx
 Whiting, Hubert L. xxx-xx-xxxx
 Whitman, Donald R. xxx-xx-xxxx
 Wilcox, Robert J. xxx-xx-xxxx
 Willett, Dale F. xxx-xx-xxxx
 Williams, David L. xxx-xx-xxxx
 Williams, George L. xxx-xx-xxxx
 Williams, Gerald O. xxx-xx-xxxx
 Williams, Jimmy R. xxx-xx-xxxx
 Williams, Tate P. xxx-xx-xxxx
 Wilson, Larry D. xxx-xx-xxxx
 Wilson, Thomas L. xxx-xx-xxxx
 Winsett, Joseph C. xxx-xx-xxxx
 Wood, John T. xxx-xx-xxxx
 Wunderle, Robert W. xxx-xx-xxxx
 Zigrino, Angelo R. xxx-xx-xxxx
 Zlochen, Stanley D. xxx-xx-xxxx

To be major

Abbott, Freeland K., Jr. xxx-xx-xxxx
 Abel, Charles H. xxx-xx-xxxx
 Abfalter, Garry H. xxx-xx-xxxx

Abney, Eddie C. xxx-xx-xxxx
 Ackerman, Donald L., Jr. xxx-xx-xxxx
 Ackermann, Edward xxx-xx-xxxx
 Ackermann, Harro xxx-xx-xxxx
 Acton, John E. xxx-xx-xxxx
 Adams, George D. xxx-xx-xxxx
 Adams, John T. xxx-xx-xxxx
 Agne, Robert L. xxx-xx-xxxx
 Ahlstrom, James D. xxx-xx-xxxx
 Aho, Donald A. xxx-xx-xxxx
 Aiken, Lewis J. xxx-xx-xxxx
 Aitken, Edith J. xxx-xx-xxxx
 Albert, David H. xxx-xx-xxxx
 Alexander, John P. xxx-xx-xxxx
 Alford, John B. xxx-xx-xxxx
 Allen, Bruce D. xxx-xx-xxxx
 Allen, Henry, Jr. xxx-xx-xxxx
 Allen, Marlin R. xxx-xx-xxxx
 Allen, Robert C. xxx-xx-xxxx
 Allen, Stephanie K. xxx-xx-xxxx
 Allen, Thomas L. xxx-xx-xxxx
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The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

CHAPLAIN

To be colonel

Acerra, Angelo T. xxx-xx-xxxx
 Brennan, Gerald M. xxx-xx-xxxx
 Gilhooley, John P. xxx-xx-xxxx
 Hoffman, Sydney L. xxx-xx-xxxx
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NURSE CORPS

To be colonel

Lofstrom, Mary M. xxx-xx-xxxx
 Tucker, Pearl E. xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

To be colonel

Manders, William W. xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Wilson, Charles E. xxx-xx-xxxx

CONFIRMATIONS

Executive nominations confirmed by the Senate October 6, 1981:

DEPARTMENT OF EDUCATION

Gary L. Jones, of Virginia, to be Deputy Under Secretary for Planning and Budget, Department of Education.

NATIONAL INSTITUTE OF EDUCATION

Edward A. Curran, of Maryland, to be Director of the National Institute of Education.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Lee M. Thomas, of South Carolina, to be an Associate Director of the Federal Emergency Management Agency.