According to the Twentieth Century Fund's Task Force on Criminal Sentencing such disparity is noticed across the country.

"Grotesque disparities are revealed in the sentences imposed for the same classes of offenders in one state as compared to another state, by different courts within the same jurisdiction, and even by individual judges meting out punishment to different offenders.

"Although there are few careful studies of sentencing disparity, those that have been undertaken demonstrate that unexplained and seemingly inexplicable sentencing disparity is widespread."

The state of Ohio recently completed a study of the disparity of sentencing in that state by evaluating the felony sentences imposed by judges in one county.

The results showed a variety of different types of sentence disparity. Again from the Task Force report, one judge granted 26 per cent of convicted felons to probation, while another gave 51 per cent probation. One of the judges studied incarcerated 62 per cent of the individuals convicted of grand larceny while only incarcerating 17 per cent of those found guilty of robbery. Another finding of the study was that one judge imprisoned 56 per cent of the black defendants appearing before him and only 35 per cent of the white defendants.

These statistics demonstrate three distinct types of judicial disparity: "overall disparity among the judges in the severity of sentencing, disparity within an individual judge's pattern of sentencing for different offenses, and disparity in the sentencing of black and white defendants.

These findings are, no doubt, in some degree also true in Connecticut. It is hoped that they are not, but given the nature of the current sentencing structure such findings would hold up.

Work and effort must begin that will bring about a system that is definitive in what is to be expected, punishes equally and provides appropriate punishment for the crimes committed.

SENATE—*Saturday June 26, 1976*

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

PRAYER

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

O God, Lord of all wisdom and might, keep us this day in health of body and clarity of mind, in purity of heart and cheerfulness of spirit, in contentment with our lot and charity with our colleagues; and further all our proper efforts with Thy blessing. Grant us strength to rise above all impatience and weariness that here the right thing may be done in the right way. In our work strengthen us; in our pleasure purify us; in our travels protect us; in our troubles comfort us; and lead us to the fullness of Thy kingdom.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 26, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, June 25, 1976, be approved.

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

ORDER DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS

Mr. MANSFIELD. I ask unanimous consent that after the two leaders have been recognized, there be a period for the conduct of routine morning business of not to exceed 30 minutes, with a time limitation on statements therein of 3 minutes each.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under "New Reports."

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

MISSISSIPPI RIVER COMMISSION

The second assistant legislative clerk read the nomination of Brig. Gen. Elvin Ragnvald Heiberg III, Corps of Engineers, to be a member of the Mississippi River Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

APPALACHIAN REGIONAL COMMISSION

The second assistant legislative clerk read the nomination of George G. Seibels, Jr., of Alabama, to be Alternate Federal Cochairman.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate resume the consideration of legislative business.

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

Mr. MANSFIELD. Mr. President, I desire no time.

Mr. GRIFFIN. I yield back the time on this side, Mr. President.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with a 3-minute limitation on statements therein.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary, with amendments:

S. 800. A bill to amend chapter 7, title 5, United States Code, with respect to procedure for judicial review of certain administrative agency action, and for other purposes (Rept. No. 94-996).

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 14232. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94-997).

DEVELOPMENTS IN AGING: 1975 AND JANUARY-MAY 1976—REPORT OF THE SPECIAL COMMITTEE ON AGING—REPORT NO. 94-998

Mr. CHURCH, from the Special Committee on Aging, submitted a report entitled "Developments in Aging: 1975 and January-May 1976," pursuant to Senate Resolution 62, 94th Congress, 1st session, which was ordered to be printed.

ADDITIONAL COSPONSORS

S. 3584

At the request of Mr. PROXMIRE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 3584, to extend and increase authorization for the extension of the winter navigation season for the Great Lakes-St. Lawrence Seaway System.

AMENDMENT NO. 1902

At the request of Mr. TAFT, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of amendment No.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

1902, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1977—H.R. 14232

AMENDMENT NO. 1967

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed to the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

HEALTH PROFESSIONAL EDUCATIONAL ASSISTANCE ACT—S. 3239

AMENDMENT NO. 1968

(Ordered to be printed and to lie on the table.)

Mr. BEALL (for himself, Mr. TAFT, Mr. BENTSEN, Mr. GARN, Mr. HATFIELD, and Mr. HRUSKA) submitted an amendment intended to be proposed by them jointly to the bill (S. 3239) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health professions, to revise the National Health Service Corps program, and for other purposes.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 1969

(Ordered to be printed and to lie on the table.)

INDEPENDENT GAO AUDIT OF THE IRS: TAX BILL THROWS UP A ROADBLOCK

Mr. METCALF. Mr. President, buried deep within the 1,536 pages of H.R. 10612, the so-called tax reform bill, there is a provision that would virtually foreclose the Comptroller General from making any independent audit of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms.

That provision—at page 704, beginning in line 3—says, in essence, that if the GAO wants to look at tax returns or return information while pursuing an independent audit of the Internal Revenue Service, it must first obtain the written approval of the Senate Finance, House Ways and Means or the Joint Committee on Internal Revenue Taxation. It says further that any such inspection or disclosure of the returns or information shall be under the supervision of one of these committees, probably the joint committee.

This means, at least to this Senator, that if this provision is adopted, the taxwriting committees by law would be placed in a special position of controlling any investigation initiated by the Comptroller General which may be required under his independent mandate under the Budget and Accounting Procedures Act and other statutes.

The Comptroller General, Mr. Staats, has testified before committees on both the House and Senate sides, that in order for him to make any meaningful management audit of the IRS, it will be necessary to make a selective examination of tax returns and return information in accordance with his own audit principles and procedures.

Indeed, in a recent letter to the chairman of the Senate Government Operations Committee, Mr. RIBICOFF, who is also a member of the Senate Finance Committee, Mr. Staats reiterated his opposition to the formal approval requirements contained in the tax reform bill provisions. He said, in part:

> We believe that it is basic to our system of checks and balances and the fundamental principles of the Budget and Accounting Act that the Comptroller General have authority to audit and review operations of Government without the approval and under the supervision of a committee or committees of the Congress. A requirement for approval by congressional committees for access to information strikes at the independence of the Comptroller General and conceivably could prevent a necessary review or audit from being made if committees of Congress chose to withhold approval.
>
> The formal approval arrangement contemplated . . . in the proposed provisions of the Tax Reform Act of 1976, however has the effect of giving committees a veto over GAO proposed audits when access to individual taxpayer records is involved. The amendment would further complicate our work in that knowledge as to whether such access is required would, in some cases, be known only after GAO has invested considerable time and money in the audit. A formal approval arrangement could therefore result in delays and increased budgetary costs.

Mr. President, what we have here in the Senate bill's buried language is an issue of major legislative proportion. The GAO is the Congress watchdog—it belongs to no special committee, but is to be independent in conducting evaluations of the efficiency, the effectiveness and the economy of all Federal agencies for the benefit of the Congress. The precedent was established when the GAO was set up in 1921 in section 312(a) of the Budget and Accounting Act. It was restated in section 117(a) of the Accounting and Auditing Act of 1950, and again in section 204(a) of the Legislative Reorganization Act of 1970, as amended by the Congressional Budget and Impoundment Act of 1974.

The Senate Finance Committee language on page 704 of this bill, specifically refers to the access to tax returns and tax information which may be required by the Comptroller General pursuant to his mandate under section 117 of the Budgeting and Accounting Procedures Act of 1950 (31 U.S.C. 67). That act says, in part, that the transaction of each Federal executive agency shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller of the United States.

Despite this broad mandate to the Comptroller General to make audits of Federal agencies, the facts are—and we should all be cognizant of them—that the IRS and the ATFB for years have refused to let the GAO come in and conduct any independent review of their administration of the tax laws and to independently inspect tax returns and return information. At the same time, these agencies seem to have had no problem in opening their tax files to the President, Presidential aides, certain Federal agencies, States, and local governments.

These two agencies, with concurrence of the Treasury Department, and with the general support of the taxwriting committees, have taken the position that two sections of the Internal Revenue Code—title 26, United States Code—preclude any independent GAO review.

The first, section 6406, makes findings and decisions of the Secretary of the Treasury on claims and allowances not subject to review by any other agency. The GAO has recognized this injunction, and has repeatedly asserted it has no interest in affecting such decisions.

The second, section 8022, authorizes the Joint Committee on Internal Revenue Taxation to investigate the administration and effects of our Federal tax system, and, in its discretion, report its results to the House and Senate. The GAO's position on this is that such authority is parallel to its own, rather than exclusive. In any event, the joint committee has never made an overall audit of the management, operations, and performance of the IRS and the ATFB.

This standoff between IRS and GAO was the subject of extensive hearings by the House Government Operations Committee. Its investigating subcommittee found a number of substantial abuses and weaknesses in the administration of the tax laws which, it said, led to loss of public confidence in the system. Accordingly, the House committee reported H.R. 8948 restating the authority of the GAO under section 117 of the Budget and Accounting Procedures Act of 1950 to self-start its own independent examination of the IRS and the ATFB, and further insuring that GAO audits would in no way affect the finality of Treasury decisions on the merits of any claim or result in any unauthorized disclosures of tax returns or information.

H.R. 8948 was approved by the House under a suspension of the rules. The language of the House bill was worked out in cooperation with representatives of the GAO, the IRS, and the ATFB. It passed the House unanimously. The Ways and Means Committee registered no objection.

On the Senate side, the Government Operations Committee agreed with the House on the GAO's independent audit authority and access to tax returns, and by amendment added additional requirements as to GAO's responsibilities in handling the audits. Notice of persons having access to the returns and the procedures for protecting confidentiality of returns and information were to go

to the Joint Internal Revenue Taxation Committee and others.

However, when the Senate Government Operations Committee version was referred to the Finance Committee, the approach was turned completely around. H.R. 8948, as reported by finance, prohibited the GAO from inspecting tax returns and tax return information unless it obtained written permission from and was subjected to supervision by the tax-writing committees and the Joint Committee on Internal Revenue Taxation.

We were prepared to take up H.R. 8948 and meet the issue of an independent GAO audit versus committee control head on, but the tax reform bill intervened, and as expected, the Finance Committee sealed into their tax bill amendments the same restrictive language as they put into their Senate version of H.R. 8948.

The result is that we are faced in this tax bill with essentially the same issue that is involved in H.R. 8948, and under the weight of a 1,500-page bill, in the pressure of tax code revision, an impending recess and an increasing backlog of Senate business, we will not be able to get to an adequate debate on the larger and more important matter of an independent review of the IRS and the ATFB by the Comptroller General.

Indeed, if we adopt the Finance Committee's language, we may be foreclosing our option to provide any meaningful independence to the GAO, since control and supervision over access to tax returns and information—basic audit information—will by law be under the control of the tax-writing committees.

Therefore, Mr. President, I feel that the appropriate legislative approach should be to delete the language relating to the Comptroller General appearing on pages 704 and 705, and in other appropriate places, of the bill, and take up the matter in its entirety when the Senate subsequently considers H.R. 8948, which is on the Calendar (Calendar No. 865).

Accordingly, I submit today an amendment to this effect, and urge its acceptance or adoption.

Mr. President, I ask unanimous consent that the letter from the Comptroller General to the Chairman of the Senate Government Operations Committee (Mr. RIBICOFF), dated June 16, 1976, be printed in the RECORD.

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

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., June 16, 1976.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: H.R. 8948, 94th Congress, which clarifies the authority of the Comptroller General to audit the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department, was passed by the House of Representatives on October 20, 1975, and reported with amendments by the Senate Committee on Government Operations on April 14, 1976. The bill was then referred to the Senate Finance Committee for further report.

The Senate Finance Committee reported the bill back to the Senate on May 20, 1976 (Senate Report 94-909) recommending further amendments. One of the Finance Committee amendments would allow the Comptroller General access to tax returns and tax return information for audit purposes only with the written approval, and under the supervision, of the Committee on Ways and Means of the House, the Committee on Finance of the Senate, or the Joint Committee on Internal Revenue Taxation.

A similar provision is included in section 1202(a) of H.R. 10612, the Tax Reform Act of 1976, which amends section 6103 of the Internal Revenue Code. See proposed section 6103(i)(6) which is on pages 704 and 705 of the bill. H.R. 10612 was reported by the Senate Finance Committee on June 10, 1976.

We are greatly concerned with these amendments. The General Accounting Office has always worked closely with committees of Congress in performing audits and reviews requested by them. At the same time the Comptroller General has, since the establishment of the Office in 1921, had authority to independently decide on additional audits and reviews that he believes are necessary in the public interest. This independent authority is set forth in section 312(a) of the Budget and Accounting Act of 1921, and restated by section 117(a) of the Accounting and Auditing Act of 1950, and section 204(a) of the Legislative Reorganization Act of 1970, as amended by the Congressional Budget and Impoundment Act of 1974.

We believe that it is basic to our system of checks and balances and the fundamental principles of the Budget and Accounting Act that the Comptroller General have authority to audit and review operations of Government without the approval and under the supervision of a committee or committees of the Congress. A requirement for approval by congressional committees for access to information strikes at the independence of the Comptroller General and conceivably could prevent a necessary review or audit from being made if committees of Congress chose to withhold approval.

We are, of course, aware of the concern of the Congress and the public relative to tax return privacy. However, the General Accounting Office has for many years had access to highly classified security information without having breached that privilege. In addition it should be noted that H.R. 8948 prohibits GAO from making any unauthorized disclosure of tax return information and subjects GAO employees to the penalties provided by law in the same manner and degree as employees of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms.

However, for all practical purposes, adoption of the amendment would not alter the present arrangement whereby the General Accounting Office undertakes reviews of IRS operations at the request of the Joint Committee on Internal Revenue Taxation. Individual taxpayer records are made available to GAO when necessary to carry out these requested reviews. It is questionable, therefore, as to whether the H.R. 8948, as amended by the Senate Finance Committee, would in the final analysis accomplish any major purpose.

We would of course be quite agreeable to working out any informal advisory arrangements which are feasible from the standpoint of the interested committees and the GAO. The formal approval arrangement contemplated by the amendment to H.R. 8948 and in the proposed provisions of the Tax Reform Act of 1976, however, has the effect of giving the committees a veto over GAO proposed audits when access to individual taxpayer records is involved. The amendment would further complicate our work in that knowledge as to whether such access is required would, in some cases, be known only after GAO has invested considerable time and money in an audit. A formal approval arrangement could therefore result in delays and increased budgetary costs.

Informal consultation is in line with present policy and practices as GAO undertakes audits of sensitive matters. It would also avoid a precedent of requiring committee approval prior to conducting by the GAO of an audit on its own initiative—a practice which could have far reaching implications for the independence of the GAO which has prevailed for 55 years and which we believe has served the Congress well.

We strongly urge that the amendments recommended by the Senate Finance Committee in both H.R. 8948 and the Tax Reform Act of 1976 (H.R. 10612) requiring written approval of the Senate Finance Committee, the House Committee on Ways and Means, or the Joint Committee on Internal Revenue Taxation for the Comptroller General to have access to individual tax returns and tax return information not be adopted.

For the above reasons, I have concluded that it would be preferable to have no legislation than to establish a precedent of the type which is embodied in the Finance Committee amendments.

Sincerely,

ELMER B. STAATS,
Comptroller General of the United States.

AMENDMENT NO. 1970

(Ordered to be printed and to lie on the table.)

TAX JUSTICE FOR HOMEMAKERS

Mr. McGOVERN. Mr. President, the Tax Reform Act of 1976, now under consideration, offers the means to focus attention on inequitable provisions that have remained unrecognized and unchallenged for far too long. One such provision which I would like to see changed is the requirement for using the joint income tax return.

The amendment which I submit today, asks that each partner swear or affirm on the 1040 form that each, in fact, owns half of all the income reported in the return and all assets for which a tax deduction or credit or exemption is claimed.

The nonsalaried spouse now has no access to the individual incentive or security available to those who draw a paycheck or own property. With the sworn right to claim an equal share of the taxable income and property, opportunities for investment, retirement plans, credit and loan applications and the many other business transactions that require proof of income could be available—both spouses would be individually eligible for investments that require financial backing.

One of the immediate benefits would be the cutting in half of the inheritance tax liability. The oath of joint ownership would refute the argument that, after the death of one partner, inheritance tax should be collected on the full amount.

There is no doubt that homemakers in this country are denied the respect and esteem they deserve. Because home management skills have not been translated into job market terms, homemakers

with years of experience as counselors, consultants, organizers, budget managers, psychiatrists and teachers count for little in the job force. It is incredible that people who provide incalculable services to this country should be labeled by attitude and fact "unskilled" and "nonsalaried."

We know that the employment statistics for women, in spite of progressive legislation and court decisions, still show that women remain economically disadvantaged. The unsalaried homemaker is even more disadvantaged because of her inability to initiate decisions involving her family's security or her own financial endeavors.

I submit that by making the joint income return a reality rather than just a signature, we will contribute generously to the much needed stability of families and ease the unnecessary economic dependence of married women.

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

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

AMENDMENT NO. 1970

At the appropriate place, insert the following new section:

SEC. . JOINT RETURNS.

(a) IN GENERAL.—Section 6013(a) (relating to joint returns) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(4) no joint return shall be made unless each spouse verifies by oath or affirmation, under regulations prescribed by the Secretary, that such spouse has equal ownership, management, and control of all income required to be included in such return and all assets for which any tax deduction, exemption, or credit is claimed."

(b) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply only to returns filed after the date of enactment of this Act with respect to taxable years ending after such date.

ADDITIONAL STATEMENTS

THE EYE OF JEFFERSON

Mr. MATHIAS. Mr. President, in 1965 when I proposed a commission to plan for the Bicentennial it was my hope that we could evoke the best in our past to help us enjoy the present and improve the future.

The National Gallery of Art has lived up to my expectations by arranging a Bicentennial exhibit that delights the eye and informs the mind. It explains the revolutionary generation to the Bicentennial generation by illustrating the things that interested and stimulated one of the great revolutionists—Thomas Jefferson. It is a magnificient interpretation of 1776 for the benefit of 1976.

As a further help to the public in fully appreciating the exhibit, the museum has published an unusual catalog which is available at the Gallery.

A thoughtful review of the exhibit by Barbara Gold was published in the Baltimore Sun on June 6, 1976. I ask unanimous consent that the article be printed in the RECORD.

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

ART NOTES—EXCELLENT JEFFERSON SHOW

(By Barbara Gold)

The National Galley of Art in Washington has just opened what must be the most carefully articulated, most extravagant, most fascinating Bicentennial exhibition in a season that threatens to leave everyone surfeited with both Bicentennial exhibitions and superlatives. "The Eye of Thomas Jefferson" is a coherent, thoughtful look at the life, times and interests of the man who was not only one of the great figures of the era being commemorated but also perhaps the last great renaissance man.

Thomas Jefferson was the author of the Declaration of Independence, served as our third Prdesident, was adept at politics, gardening, architecture, writing, art collecting, history and more. He loved to travel, put together an ideal list of the classical pieces he would like to see in casts or originals in the President's mansion, and he planned Monticello, the University of Virginia, the Rosewell residence in Virginia, and held a competition for the President's home.

The exhibition includes more than 600 painting, sculptures, drawings, prints, books, examples of decorative arts, architectural drawings and models and landscape designs. They have been lent by more than 150 collections in Europe and the United States—including Baltimore's Peale Museum which has contributed Charles Wilson Peale's "Exhuming of the Mastodon."

VENUS FROM ITALY

Italy has sent the Venus de Medici. The marble sculpture, made in the First Century B.C., was considered the epitome of classical perfection. It was first on Jefferson's list of classical pieces to have in his ideal collection, and it is displayed in a reconstruction of a temple he designed to hold it.

England has sent one of the Towenly vases, another great classical piece Jefferson would have liked to own. Almost one fifth of the loans come from French collections—including the Louvre, Versailles, and the Bibliotheque Nationale.

The exhibit itself is a triumph of planning. Two years went into it, and installation takes up all the gallery's ground-floor exhibition space plus the West Garden Court—which serves as sanctuary for two mockingbirds housed in a Jefferson-designed classical temple.

Furniture, rooms and table settings have been brought together and re-created down to the last details of mirrors, rugs and silver. Letters have been read and researched, and the works of art mentioned in them have been located and borrowed for the show.

LAST OF THE AGE

Focusing on one outstanding man this way turns out to be a particularly fitting method of handling the Bicentennial period. The Eighteenth Century was perhaps the last time when a man could hope to become knowledgable in so many diverse fields. Jefferson serves as an outstanding example of that age for he was, possibly, the last well-known person to attempt the feat of mastering so many fields so successfully.

He was the archetypal man of reason, and the Eighteenth Century, if it was anything, was the age of reason. Great priorities were placed on logical thought, on the abilities of the mind and on the great things it could accomplish. Jefferson comes through in this exhibit as both man and thinker. Portraits, drawings, models, and installations are divided into sections which cover his formative years, the "progress of the human mind," his interests in Britain, the Revolution and his crucial role in it, architecture, nature and plants.

The man of reason is not the only man in this exhibition, however. There is another side of Jefferson here. That is the man who met and spent summer afternoons (properly chaperoned) for one Paris summer with Maria Cosway, a British painter who had come to the city with her husband and who inspired Jefferson not only to begin a lifelong friendship but also to write his famous "Dialogue of the Head and the Heart," a verbalization of an internal struggle that reflects not only the Eighteenth Century stress on reason and control but also the emotional, romanticized attitudes of the coming Nineteenth.

A SHOW THAT WORKS

This show works because it is about one man and because it creates a picture of the history of the time, a picture Jefferson was instrumental in creating. He was not only the author of the Declaration of Independence. He initiated the expedition of Lewis and Clark, negotiated the Louisiana Purchase, and served as a diplomat in Paris. A red-walled gallery serves as a small Paris salon, and paintings by Jacques Louis David document his preference for that great classical painter.

The success of this exhibit is not due to great expense—although the costs are expected to run into the hundreds of thousands—but rather to careful planning and execution, thorough research, and meticulous attention to detail.

Other less successful Bicentennial exhibitions, whether lavish or modest, have been characterized by haphazard planning, careless execution and lack of attention to detail. These exhibitions have made it very difficult, as the Bicentennial season reaches its summer climax, to see new efforts with an open mind. "The Eye of Thomas Jefferson" is truly different and should not be missed.

EMERGENCY RULE IN INDIA

Mr. KENNEDY. Mr. President, a year ago today emergency rule was proclaimed in India under the terms of its constitution. In the year since, many of the measures taken by the Government of India—and many of the actions taken by Prime Minister Indira Gandhi and her party—have raised serious and troubling questions for all true friends of India.

Although what has occurred in India is not unlike what has happened previously in neighboring Pakistan and Bangladesh, and was well within the bounds of previous Indian precedent, the scope and degree of Mrs. Gandhi's action represent a significant departure from India's constitutional tradition.

Many observers believe that in addi-

tion to Mrs. Gandhi's political difficulties, a deteriorating political and economic situation in India required emergency measures to meet an emergency situation. And most foreign observers seem to agree that emergency rule generally gained popular support across India, and that the tangible efforts of the Government over the year in halting inflation, in controlling the economy, in increasing food production, and in stablizing urban conditions, are receiving continued popular support.

But whatever the justifications or economic merits of emergency rule may be, friends of India are inevitably concerned over the apparent direction the Government of India has taken in implementing the terms of the emergency proclamation. Tens of thousands of political prisoners remain in jail, and many are still being held without charges against them. Fundamental civil liberties have been suspended, and strict press censorship imposed. Elections have been postponed, and opposition parties banned. And judicial safeguards have been weakened as the constitution has been amended.

Together, these actions have served to erode the traditional democratic institutions which have guided India since independence. And they form a pattern that raises the question as to whether Mrs. Gandhi has bent beyond repair India's constitution and democratic practices—despite her stated intention is to do otherwise.

Mr. President, like many Americans, I deeply regret the conditions last year which produced emergency rule in India—even as we all hope that its imposition will not mark India's final passage from democratic ideals.

Obviously, the future of India is for the people of India to determine. And, as President Julius Nyerere, of Tanzania, noted some years ago, there are differing paths of socialism and differing ways to achieve democracy. Across Asia and Africa, Third World nations are shaping their political systems and their social policies according to what they see as their own needs. In many countries, "democracy" has been defined in ways that are in marked contrast to American or Western tradition.

In case of India, its friends must actively support Mrs. Gandhi's stated intention to remain faithful to India's democratic ideals—and to hope that the actions she takes in the coming months will redeem her promises of democratic reform.

The international community must also continue to fulfill its responsibility to be vigilant to any reports of the gross violations of human rights in India, and to express its deep concern over the fate of political prisoners still detained.

Mr. President, I ask unanimous consent that several relevant press reports on the situation in India be printed in the RECORD.

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

[From the Christian Science Monitor, June 21, 1976]

IS INDIA BETTER OFF WITHOUT DEMOCRACY?—AFTER YEAR-LONG "EMERGENCY" THE MIDDLE CLASS SEEMS CONVINCED

(By Peter Kai)

BANGALORE, INDIA.—One year after Prime Minister Indira Gandhi imposed a state of emergency and assumed sweeping executive powers, the Indian people appear divided, but resigned to a permanent end of democratic rights.

On the surface they have responded favorably to a government-sponsored press campaign aimed at "normalizing" the state of emergency.

Although tens of thousands of political dissidents remain imprisoned—some say at least 100,000—Mrs. Gandhi seems to have convinced many middle-class Indians the current economic benefits of the emergency justify the permanent suspension of such basic democratic rights as the freedoms of speech, assembly, press, and judicial appeal.

Deviraj Patel, who owns a small, electrical-parts factory in the city of Poona, says, "Democracy isn't suited to India. Two years ago I really feared a communist take-over. Today, that just won't happen. My business is prospering I have no more labor problems. Taxes are lower, and profits this year will triple."

An Army colonel, who worries about retiring on a fixed military pension, says of the emergency: "You only have to look around to see the benefits. . . . Prices of food and consumer items are actually lower, people are working in a disciplined manner, and New Delhi has been swept clean of thousands of beggars and slum dwellers."

BREAKUP OF INDIA AHEAD?

As a result of a favorable monsoon within the past year and of strict monetary policies begun in 1974, inflation actually has halted in the last six months. But many economists note the strict monetary policies largely benefit the urban middle-class, while industrial workers have been hit with sudden layoffs and with increasing unemployment.

One prominent economist who declined to be identified, comments: "The middle class find life much simpler. The trains run on time. There are no more strikes or noisy political processions. And, most important, the government has lowered taxes and halted inflation.

"Politically, Mrs. Gandhi has destroyed the fragile, but democratic, balance of power among our diverse peoples. After she goes, I believe India faces either a right-wing military dictatorship or a breakup of the Indian union into several separate states."

With slogans such as "Only Magic: Iron Will, Discipline, Hard Work," "The Nation is on the Move," and "She Stood Between Chaos and Order," the government extolls the benefits of the emergency. Government ministers publicly argue that the right of judicial appeal and other democratic guarantees have too long delayed the implementation of land reform, educational reform, and social justice for Hindu "untouchables."

MIXED FEELINGS ON CAMPUS

A university dean in the State of Maharashtra says, "Under the emergency, educational reform is moving forward for the first time. Students can no longer strike when they fail their exams. We don't allow them to indulge in street politics any longer, so they are studying for the first time. And now I can dismiss professors who don't show up on time to teach their classes."

But an "untouchable" political-science student graduating from the same university complains, "We are getting no better a deal under the emergency than without it. The same civil servants with the same caste prejudices continue to discriminate against untouchable students and government officers seeking promotions. The only difference is that under the emergency we have no judicial appeal against discrimination."

Several determined civil liberties lawyers in Bombay are perhaps the only people in this country who have taken a public stand against the government's attack on the judiciary. This reporter witnessed a recent case before the chief justice of the Bombay High Court in which lawyers prevailed upon the court to at least temporarily prevent the arbitrary arrest of an outspoken government critic.

HOW MUCH FREEDOM OF DISSENT?

N. A. Palkhivala, prominent civil-liberties lawyer, declared before the court: ". . . this government's state of emergency has not eliminated the right to dissent. If the chairman of the Bombay Bar Council. Mr. Ram Bulchan Jethmalani, a lawyer who practices in this very court, cannot express his opinions at a lawyers conference, then who can? It is the right of any citizen, even under the emergency, to dissent peacefully—even if he describes our present government as undemocratic and calls for an end to the emergency."

One issue where the increased administrative powers under the state of emergency will likely directly affect everyone is population control. A national campaign recently was launched to introduce legislation for compulsory sterilization in most states within a year. Many administrators already are said to be using their unquestioned authority to compel people to undergo sterilization.

A district chief in Maharashtra who controls the daily lives of more than half a million people admitted to this reporter. "Under the emergency I can force my people to have fewer babies. The other day, for instance, I withheld several hundred monthly paychecks for schoolteachers until they agreed to sterilize themselves."

This district chief, who refused to be identified by name, speaks bluntly: "You know, even after almost 30 years of parliamentary democracy, our bureaucracy is unable to tolerate democratic attitudes of dissent and free criticism. We inherited from the British Raj an uncompromising respect for rules and regulations—but not necessarily democracy. I think you will find that, whoever holds power at the top, the Indian bureaucracy will carry out orders—along with the usual 'tea money' on the side."

CRUSHING WEIGHT OF HISTORY

Another Indian, this one a widely known writer, asserts: "We are in for a long period of increasingly authoritarian rule. You can see it simply in the growing influence of the Prime Minister's son, Sanjay Gandhi. Many of us will be jailed, and I doubt very much if India will ever again see the face of democracy."

But a left-wing journalist responds, "Democracy in India was always an illusion. Before the emergency there were more than 25,000 political prisoners in the State of West Bengal alone. We hear the hue and cry about the death of democracy because only now are a few middle-class liberals and intellectuals beginning to feel the harshness of a repression that formerly only the poor suffered."

An American student of India tries to explain the emergency in historical terms: "India is falling back on a 5,000-year tradition of centralized imperial rule through a far-flung bureaucracy. This was how the Moghuls and the British ruled India's disparate peoples. . . . Democracy has had a very short run in this part of the world.

[From the Christian Science Monitor, June 25, 1976]

DEMOCRACY FACES AN UPHILL CLIMB IN INDIA

It is going to be a long, slow—and grim—haul for democracy in India, where civil rights have taken a holiday, where the judiciary has been short-circuited, and where political activity has been reduced to nothing.

This is the view of veteran observers of the Indian scene as the country enters its second year under the state of emergency imposed by Prime Minister Indira Gandhi last June 26. These observers see strong shades of a "guided democracy" or, as it is sometimes also called, paternalistic dictatorship.

"What the country has witnessed," says a widely known academic, "is the virtual depoliticization of the system . . . with the oligarchic concentration of power in Mrs. Gandhi and a few of her aides."

There is this assessment of the current state of affairs:

The parties of the opposition are a demoralized lot. Although four of them recently agreed to a merger, they have not been able to organize any significant resistance to the emergency. And, with press censorship tight, the few symbolic acts of defiance they could put up had little impact.

The "underground" has virtually been put to an end. The remnants were mopped up earlier this month when Socialist Party and railway union chief George Fernandes was arrested. Even in hiding, Mr. Fernandes appeared to be doing little more than circulating letters to bolster the illusion of a resistance.

The opposition has no specific demand to formulate now. The newly merged "federal party," formed at the initiative of Jayaprakash Narayan, who is perhaps Mrs. Gandhi's chief opponent but who also is of advancing years and what is generally considered to be ill health, fondly hopes that the Prime Minister will restore democratic norms and call general elections early in 1977. However, the new party, for all intents and purposes, is a loose electoral front of dissimilar elements and with a limited objective—to polarize the anti-Congress Party vote at the next elections, if held.

The ruling Congress Party has never polled more than 45 percent of the vote in India, but under the simple majority system in effect it has stayed in power by getting seats in Parliament out of proportion to its vote.

Observers say it is possible that Mrs. Gandhi will formally lift the emergency shortly before the elections, which are seen as a necessary exercise to legitimize it. But even so the emergency will be redundant as soon as proposed constitutional amendments—which would make permanent the curbs on civil rights, the scope of judicial intervention, and laws barring publication of anything deemed objectionable—are rammed through Parliament. This the Prime Minister unquestionably has the power to do, since in both houses her Congress Party holds a two-thirds majority.

Outside the political arena, there are recessionist trends in several sectors of the economy—industrial production has yet to pick up in several areas, and India has survived on massive external credits—but two successive years of good harvests have helped contain the raging inflation and there now is a 12-million-ton buffer stock of foodgrains. Mrs. Gandhi seems to hope that the good harvests, the buffer stocks, and relative price stability will give her party a convincing victory at the polls.

The opposition, on the other hand, has not been looking beyond elections. And, it appears it would be content just to win a few seats in what seems certain to be an unequal contest.

[From the Baltimore Sun, June 26, 1976]

EMERGENCY TO GO ON, MRS. GANDHI DECLARES

NEW DELHI.—Prime Minister Indira Gandhi made it clear yesterday she is not ready to lift India's year-old state of emergency, in part because her opposition at home and abroad "has been subdued but not vanquished."

In an interview with Samachar, the Indian news agency, the 59-year-old prime minister also gave no indication of any plans to hold elections, restore press freedom or civil rights or release political prisoners.

Mrs. Gandhi cited dangers facing the country in declaring the emergency. Just before the declaration, she had been accused by a court of violating election laws.

"Dangers before the country have not diminished. They are as real today as they were a year ago," Mrs. Gandhi said. The threat "of subversion, of interference from outside . . . is increasing."

She did not specify the origin of the external threat, but her language was similar to that of last December when she accused the U.S. Central Intelligence Agency of mounting a "Chilean-style destabilization campaign" against her rule.

"Recent developments in the Western press have drawn attention to persistent efforts to destabilize governments in Asia, Africa and Latin America and to malign and even assassinate leaders who show independence," Mrs. Gandhi said.

The interview, marking one year of emergency rule, was the centerpiece for a series of Samachar articles extolling the gains, particularly economic, of the measures Mrs. Gandhi took "to save the nation from internal disorder and economic chaos."

[From the New York Times Magazine, Apr. 4, 1976]

INDIA IS AS INDIA DOES

(By J. Anthony Lukas)

(With total censorship guaranteeing a docile populace, she seems to be moving from dictatorship to dynasty.)

The camel-tracked deserts of Rajasthan slid beneath the wings of the British Airways jet speeding toward New Delhi. In the lounge several passengers sipped a "wake-up" glass of mango juice.

"Is this your first trip to our country?" asked a portly Bombay businessman, an opal ring shimmering on his pinkie.

"No, I was here from 1965 to 1967."

"Ahhh," he sighed. "You will find things changed. No longer are we soft and amoeba-like. We are hard and disciplined now. The Lady has done that. Hats off to the Lady!"

A half-hour later, the plane landed at Delhi. On the tarmac I sniffed the acrid fumes of burning cow dung from a thousand fires warming the wintry morning. I was back in India.

It was a return I had long awaited. My two years as New York Times correspondent in this surprising land had been filled with rich friendships, revealing encounters, evocative scenes, and for eight years I had hungered for those special pleasures. So after Prime Minister Indira Gandhi declared an "Emergency" last June, suspended many constitutional rights and called for a new era of discipline, I welcomed the opportunity to revisit India and find out how it had changed.

As I rode from the airport in the cool of that delicious November morning, Delhi seemed to have changed very little. There were the same broad boulevards, the same red-sandstone Government buildings, the sprawling white bungalows which once housed British colonial administrators and now serve as residences for ministers and senior civil servants.

But as my taxi approached Connaught Circus, the city's busy commercial center, I began to notice large billboards by the road: "Work More—Talk Less," "Hard Work, Clear Vision, Iron Will, Strictest Discipline," "Improve the Quality of Goods and Streamline Distribution," "Defeat the Design of Sabotage by Reactionary Forces." A closer look revealed other posters on shop windows, on the backs of buses, on mail trucks or office walls bearing pictures of Mrs. Gandhi and what are called "stray thoughts of the Prime Minister." One sign read, "Courage and Clarity of Vision, Thy Name is Indira Gandhi."

Soon I learned that these billboards and posters were only the most visible manifestations of a full-blown "personality cult" which, during the past months, has been carefully erected around the Prime Minister. She has been bathed in a superheated rhetoric which projects her not simply as a political leader but as the very personification of the nation. "Indira is India and India is Indira," Congress Party President D. K. Barooah said last summer. M. F. Hussain, a renowned Indian artist, painted a mural depicting India as the godess Durga riding a lion.

At my hotel, I telephoned an old friend and arranged to meet him in one of the tiny coffee shops which ring Connaught Circus. I was apprehensive, for before I left New York I had been warned that even my best friends might be too frightened to talk with me. This dismayed me, for what I remembered best from my Indian idyll had been precisely the talk—the loquacious, nattering, windy, glib, eloquent, expansive, angry, passionate talk which went on at dinners, garden parties, cocktail parties, tea parties, indeed any gathering of two or more, and rarely ended until throats were hoarse and eyes red as the dawn came up over the Mogul tombs.

The India I knew was intensely politicized. The old system's strength lay in dealing with conflicts between language groups, religious, regions and castes, and ultimately evolving a rough consensus through endless palaver. Its weakness was in solving economic problems. The palaver could grow exasperating—particularly when it took the place of action to relieve the hunger and poverty of ordinary Indians. But there was something awesome, too, about this new democracy struggling so earnestly to work out its staggering problems within the relatively unconstrained forms of Western liberalism. It was a struggle I found endlessly fascinating, and one which was unimaginable without the talk.

So when I met my friend that morning in the dusky recesses of the crowded coffee shop I was worried. Was it all right to talk there, I asked solicitously. For a moment he surveyed the room uneasily. "Oh, why not?" he shrugged finally, and then launched into a minute dissection of the current regime.

In the days to come, I found the same skittish loquicity as I made the rounds among old friends and new acquaintances. Most asked me not to use their names for fear of Government reprisal, but once we got started they invariably spoke their minds. At one party, I talked for half an hour with a prominent dissenter while a high-ranking man from the Research and Analysis Wing (R.A.W.), the Indian equivalent of the C.I.A., sat across the room. When I asked the dissenter how he dared talk so freely with a spy so close at hand, he said blithely, "Oh you know us, Tony, nothing can turn us off." But when I told this story to another friend, he said bitterly, "Of course, we still talk. What else can we do?"

Indeed, talk—what a cynical Indian friend calls "fearless gossip"—is the last remaining safety valve among those which once permitted the straining engine of Indian democracy to survive nearly apocalyptic pressures. All the other valves—a free press, the par-

liamentary opposition, regional parties, an unfettered judiciary—have now been largely shut off.

One might be willing to sacrifice even the glorious talk if that would make some difference in the lives of ordinary Indians. One official told me bluntly, "It is only foreign reporters like yourself and your counterparts among the Indian upper middle class who worry about such things as freedom of expression. What most of our people care about is filling their bellies. We are tired of being the workshop of failed democracy. The time has come to exchange some of our vaunted individual rights for some economic development."

I took this admonition to heart. Perhaps the official was right. Perhaps I was wallowing in nostalgia for an India that could be no more, an India where I and my colleagues fed off the rich meat of good conversation while the rest of the nation starved. So, as I roamed the country in the next few weeks, I asked myself: Was Mrs. Gandhi's Emergency truly an exchange worth making, a trade-off of individual liberties for economic growth which would hurt a paltry few but bless a whole nation?

Soon I learned that the change had far more to do with the Prime Minister's character than the needs of the nation.

When I was last in India, Mrs. Gandhi was still trying to follow in the footsteps of her father, Jawaharlal Nehru, who had been Prime Minister for 17 years. She tried to play by her father's rules—an exquisite respect for the sensibilities of colleagues, the press, the opposition parties. But she couldn't pull it off. Nehru, she once conceded, "was a saint who strayed into politics . . . but I am not of the same stuff."

A woman who has known Mrs. Gandhi since childhood told me, "The biggest mistake people have made about Indira has been to see her as her father's daughter. She isn't. She's her mother's daughter. Jawaharlal had a genuine sense of his own power, so much so, in fact, that he fought to keep it in check. But Indira's mother, Kamala, felt snubbed and abused in the Nehru family. She felt an abiding sense of powerlessness. Indira has often said how much he identified with her mother. She has always felt powerless, too."

By 1969, she could no longer keep up the pretense. Gradually, she shucked off her father's technique of graceful consensus building and found her own style—determined enforcemnet of her own will. During the next few years, she broke the power of anyone within her own party who could say her nay. Systematically, she rooted out the chief ministers of India's 22 states who boasted an independent power base and replaced them with her own courtiers. She grew testy with the often irritating opposition. Increasingly, she resorted to President's Rule—a temporary administration by the central government which really means Prime Minister's Rule—to keep opposition coalitions out of power in the states. And she began taking steps to restrict the independence of India's feisty press.

Thus, the elements of her Emergency could be found in Mrs. Gandhi's rule long before last June. Her formal declaration of Emergency was not a sharp break with the past but a logical extension of her style of governance.

But if Indira abandoned her father's democratic model, then her own son is carrying the authoritarian progression one step further. Since mid-June, Sanjay Gandhi has emerged as a major influence on his mother, a power in his own right and her logical successor in the family dynasty.

At 29, Sanjay has no credentials which would entitle him to be second-in-command of the world's second most populous nation. He has never held a formal Government job and only recently, at his mother's behest, was named to the executive committee of the Congress Party's youth wing. Until last year, he was best known as builder of the Maruti, a small car named after the son of the Hindu wind god.

And the Maruti has been more of an embarassment than a credential. Although Sanjay had scant engineering experience, the Government selected him over 13 other applicants to build the "people's car." Mrs. Gandhi said she could not deny Sanjay the opportunity "just because he is my son. Then how am I going to justify young men in the country." Sanjay's automobile was certainly denied no opportunity: financiers rushed to invest; Government bureaucrats cut through red tape, and Bansi Lal, then Chief Minister of Haryana State, condemned 297 acres of choice farmland to make way for a factory so immense that it looks like the Pentagon rearing above the North Indian plains. Yet to date, the plant produces barely 10 cars a month.

But these days Sanjay has turned his attention to other matters. From midsummer on, Mrs. Gandhi has spent much of her time closeted in her residence, where Sanjay and his wife also live. This has given her son special access which no other adviser is able to match, and he has seized the advantage. The Emergency's tough measures bear his stamp. A former high-ranking official says: "Sanjay has the biggest voice in deciding who is arrested. He gives orders to Cabinet officials and top civil servants. Already he is something between the Crown Prince, and the Lord High Executioner."

Indeed, Sanjay has now pushed aside most of the other advisers who once had his mother's ear. He told Siddharta Ray, the Chief Minister of West Bengal, he wanted no more of his "publicized dashes to Delhi." But it was P. N. Haksar, the deputy chairman of the planning commission, and at one time his mother's principal private secretary, who was Sanjay's particular rival. There has been bad blood between the two men for years, dating from the days when Haksar had to get Sanjay out of several youthful scrapes involving drink, cars and women. Most recently Sanjay blamed Haksar for hostility to the Maruti project and for refusal to backdate a letter which would have legalized one of his mother's disputed election practices.

So after the Emergency was declared, Sanjay and his associates decided to "send Haksar a message." The message was delivered by way of Haksar's uncle, Pandit Haksar, who owns Pandit Brothers, a well-known New Delhi dry goods firm. One day, Government inspectors descended on the store's branch in Connaught Circus and conducted a rigorous search for improperly priced goods. When they failed to find anything, they moved on to the store's branch in the Chandi Chowk district and there, on the balcony, discovered some bed sheets with no price markings. On this technical violation alone, they promptly arrested 85-year-old Pandit Haksar and his partner. Only after strenuous protests from their friends, did Mrs. Gandhi herself get the pair released on bail. But P. N. Haksar got the message.

One part of the message is that, with the ascendancy of Sanjay, influence in the Prime Minister's inner circle has passed from the Kashmiris to the Punjabis. From the beginning, Mrs. Gandhi relied heavily on a small group of personal advisers whose loyalty was exclusively to her. But because the Prime Minister seems incapable of trusting anyone for more than a year or two, the composition of this "kitchen cabinet" shifted constantly. In recent years, she has depended on several Kashmiri Brahmins (members of the highest Hindu caste who, like the Nehrus, come from the northern state of Kashmir). Known as the *Panch Hakare* or "Five Warriors," these aristocratic advisers—of whom Haksar was the leader—have now been largely displaced by a rougher bunch referred to as "the Punjabi Mafia."

Sanjay's wife, Manaka, is a Punjabi, and many of Sanjay's friends and close associates also come from the brash, energetic Punjab State northwest of Delhi. Chief among these is his closest ally, Bansi Lal, the former Chief Minister of Haryana, recently promoted to Defense Minister (Haryana split off from the Punjab in 1966). As Chief Minister, Bansi Lal patterned himself after Pratap Singh Khairon, a legendary Punjabi Chief Minister who became known as "the Al Capone of Indian politics," ultimately dying gangster-style in a hail of bullets on a darkened road. But Khairon got things done. So does Bansi Lal. At any price.

Indeed, so do all the members of the Sanjay-Bansi Lal faction who now form the Prime Minister's inner circle—Yashpal Kapoor, the former member of her secretariat whose campaign work resulted in one of her "corrupt practices" convictions last June, B. K. Dhavan, Kapoor's cousin and now one of the Prime Minister's secretaries, and Mohammed Yunus, an old Nehru family retainer.

"These are unabashed tough guys," says one who knows them well. "They are the kind of people you always find near the top of an authoritarian regime: cool, pragmatic men uninhibited by many scruples."

A case in point. One keynote of the Emergency has been a campaign designed to "clean up" the cities. Workmen have been whitewashing curbstones. Beggars, who used to throng Connaught Circus, have been trucked into the countryside. And Government bulldozers have been demolishing unauthorized squatters' colonies and merchants' quarters. One area scheduled for demolition last fall was a warren of tiny stalls near the Jama Masjid, Delhi's biggest mosque.

A social worker who had long labored in the district got wind of the demolition plan and protested to Sanjay about the Government's lack of concern for relocating the merchants. Two nights later, there was a knock on the social worker's door at midnight. Eight policemen burst in, arrested him and carted him off to jail, where he spent nine days. He was later released—but only after he had been paraded through the Jama Masjid area in chains, with the police reviling him. So far as I could determine, his only crime had been to dare to differ with the Prime Minister's son.

When I heard this story I realized how thoroughly India had changed from the days I had lived there. There has always been injustice in India. There has always been poverty, disease and misery. But not for some time has there been personal tyranny.

And yet, as I traveled around the country, I was struck by another undeniable fact. Although the tyranny tightens every day, there is little visible evidence of protest. This is a striking paradox. How can the Indians who fought so bravely for their freedom against the British only three decades ago sit by and let this freedom be taken away?

First, the freedom struggle is fast receding into the mists of memory (an ad in a Bombay newspaper recently warned: "If you were born before Independence Day 1947 you could be losing your hair"). Moreover, it is one thing to fight against a foreign occupier, and quite another to resist oppression from the very family which helped lead that fight and has guided the nation through most of its first quarter-century of independence.

To be sure, violent protest is no rarity in India. I remember days in the mid-60's when I could lay out wire-service dispatches in a semicircle on my desk and choose which riot I wanted to go to: the riot over use of

the English language in Madras, over cow slaughter in Uttar Pradesh, over bar examinations in Kerala, over streetcar fares in Calcutta.

But such dispatches are deceptive. Violent protest in India is less spontaneous than it seems. It is generally of three kinds: spontaneous demonstrations over religion or language, loosely organized demonstrations over living costs and highly structured protests over everything else, particularly politics. But Mrs. Gandhi has now imprisoned the very opposition leaders capable of mounting such protests. (The Government refuses to say how many it has arrested but estimates range from 10,000 to 100,000. Among the prisoners are at least three former cabinet ministers, 11 members of the upper house of Parliament, about 20 members of the lower house, the most prominent leaders of every opposition party—except the pro-Moscow Communists—and some dissenters within Mrs. Gandhi's own Congress Party.)

There remain, of course, the Gandhian techniques of passive resistance employed so effectively against the British: peaceful processions, sitins, voluntary surrender for arrest. But these techniques share one quality that is often overlooked. They are acts of *symbolic* resistance which depend for their effectiveness on widespread publicity. And while even the British colonists generally permitted news of these events to circulate, Mrs. Gandhi has shrewdly banned all such reports.

Trained in the British tradition, India's civil servants and military officers are relentlessly loyal to political leadership. But some of them might have been less willing to follow Mrs. Gandhi down the authoritarian road had they felt their resistance would have any impact. One official told me at length how unhappy he was about the Emergency measures. If he felt so strongly, I asked, why hadn't he resigned? "I thought of it," he said said, "but who would know? Only my wife and children—and they would find out because there woudn't be any food on the table." In fact, only two officials—an Additional Solicitor General and an officer of the Federal Reserve Bank—are known to have resigned in protest against the Emergency.

Ordinarily, the most effective technique for rallying opposition would have been a traditional "fast unto death" by the 73-year-old leader of the opposition coalition, Jayaprakash Narayan (known as J.P.) This was a technique Mohandas Gandhi often used against the British and it has been successfully employed by others in recent years. It brings great moral suasion on the Government, but again it clearly depends on widespread publicity. When J.P. considered such a fast in his prison cell, his friends warned him, "Don't do it. Nobody will ever know."

There is another story about J.P.'s early detention. It is said that when he was moved from Delhi to Chandigarh, he was so sick officials wanted to take him in an ambulance. "Oh, no," J.P. replied. "You want me lying down so I won't see the crowds of my supporters demonstrating in the streets." The officials then insisted that he accompany them on a tour of Delhi, where they showed him that nobody was in the streets—for J.P.'s arrest had never been published in the censored press. "Now," they asked, "will you get in the ambulance like a good man?" J.P. meekly complied.

Thus, censorship is not incidental to the Emergency. It is absolutely central—the prime instrument which guarantees the Prime Minister a docile populace. In my travels to Bombay and Calcutta, I found journalists, lawyers and Government officials utterly unaware of what was going on in Delhi. And they knew it.

But most Indians don't even know how utterly cut off they are from the truth. Mrs. Gandhi was once Minister of Information and Broadcasting and that apprenticeship has served her well. She has wheeled all the machines of publicity into the current battle and they are grinding overtime.

This media blitz is particularly devastating because the press—once the freest between the Rhine and the Japan Sea—has been utterly emasculated. Reporters stick their dispatches on one end of the censor's conveyor belt which then disappears into a tunnel. If they are lucky, the stories come out the other end with only a few key passages red penciled. Sometimes they don't come out at all.

Censorship "guidelines" prohibit reporters from writing anything that would, among other things, "subvert the functioning of democratic institutions," "affect India's relations with other countries," "denigrate the institutions of the Prime Minister, President, Governors," "bring into hatred or contempt the government established by law in the country." Obviously such sweeping prohibitions mean exactly what the censors in any given case wish them to mean.

In the 1960's, some of my closest Indian friends were newsmen. On my return, I sought out one of them—one of the ablest reporters in the country.

"I can't go on like this," my friend said in despair. "I'm a professional reporter. Now I've been reduced to rewriting Government handouts. I've asked them to take the byline off my pieces. I wouldn't put my name on the ridiculous fantasies I have to grind out. It's absolutely impossible to be an honest journalist in India today."

Several days later, another friend took me to a meeting of the Delhi branch of the National Union of Journalists (N.U.J.). When I arrived, some 50 newsmen were seated around a long table. Prithvis Chakravarty, Secretary General of the group, reported that he had been negotiating with the Government on plans to "restructure" the Indian press: among them, establishment of regional boards to serve as "buffers" between editorial staffs and the industrial owners, and a merger of India's four major news agencies under Government auspices. Chakravarty conceded that some newsmen believed these measures were designed to further throttle the press's independence, but he insisted: "It is not for us to question the Government's sincerity. We must accept the Prime Minister's word that these schemes are to preserve independence of editors."

This provoked some incredulity around the table. George Verghse, Mrs. Gandhi's former Information Adviser who was recntly forced from his job as editor of The Hindustan Times by Government pressure, said he had ample reason to question the Government's sincerity. "They say they want to guarantee freedom of the press by protecting us from our owners," he said. "But they want to set up boards—on which the Goveernment will apparently have the predominant influence—to govern us instead. That seems a very dubious exchange."

Then a Kashmir editor broke in: "Don't you realize how ridiculous you are? The very discussion we are having here cannot be reported in your own newspapers. When will you fight back?"

The editor's challenge set off a spate of self-flagellation. "India is a meek country and Indian journalists are the meekest of all!" exclaimed a prominent reporter.

Chakravarty stubbornly defended himself. "You must distinguish between my duty as an individual and my duty as Secretary General of the N.U.J. As an individual I may have my views about the Emergency. As Secretary General, I must accept the right of established authority to proclaim the Emergency. So what shall I do: Jump from the Qutub Minar [an ancient tower in Delhi]? Go to the Himalayas? Stop shaving?"

Since that meeting, the journalists' worst fears have been realized. Censorship has been realized. Censorship has been institutionalized with a law permitting the Government simply to close down any publication which prints "objectionable matter."

But it would be foolish to suggest that Mrs. Gandhi has pulled off her Emergency merely through repression. Even before June 26, she had genuine support from some important segments of Indian society and the Emergency has given her added leverage with other groups.

Her principal support comes from rural India—the 584,000 villages where 80 percent of India's population lives. The Congress Party has always drawn most of its votes from these dusty hamlets where the cadres of the "freedom movement" first penetrated in the 1920's. And Indira probably has more support among villagers than her father ever had. For Nehru was a true aristocrat, brought up in a cosmopolitan milieu, who spoke chiefly Urdu (the language of India's Moslems) flavored with only a few Hindi words. But Indira was raised primarily by her mother, a devout Hindu, and she speaks vernacular Hindi, replete with references to the Hindu scriptures. In recent years, she has shrewdly cultivated the dress, speech and air of frail fatigue which identify the emotion-laden figure of Mataji, the Indian Respected Mother (her enemies call her "Mama Doc" or "Big Mommy"). When she plays this role—with the skill of a trained actress—she strikes sparks from rural audiences.

But although she makes her rhetorical pitch chiefly to the small peasants, the landless laborers, tribal groups and lower castes, who are at the bottom of India's social scale, her prime allies in the villages are really the prosperous peasantry, India's "kulaks," who are mainly interested in maintaining the status quo.

In urban India her prime allies are not the workers but the major industrialists. There is exquisite irony in this. During the late 1960's, in her campaign to build mass support and isolate the leaders of the old Congress organization, she staked out a populist position laced with perfervid denunciations of the "monopolists." During this period, her program had a "socialist" tinge: emphasis on the public sector as opposed to private enterprise, encouragement of small private companies over large ones, heavy trade controls, bank nationalization.

But by the early 1970's she quietly began to abandon some of those sacred tenets—not because she had rethought her position, but because they simply weren't working. Well before the Emergency, she authorized Finance Minister Chidambra Subramaniam and Industries Minister T.A. Pai to loosen constraints on private industry, encourage the big companies, liberalize terms for foreign private investment and crack down hard on labor unrest.

But now, during the Emergency, she has cut loose with a fresh burst of rhetorical populism. To whip up enthusiasm for her Draconian measures, she and her parliamentary ally—the pro-Soviet Communist Party of India—sponsored a series of "anti-fascist conferences" throughout the country, culminating in a monster All-India Conference last December, during which speakers poured forth this sort of thing: "The most welcome event in the post-independence era is the proclamation of Emergency that has cleared the decks for a battle against the reactionary forces in Indian society being aided and abetted by outside forces, particularly the multinational corporations of America which believe that democracy must be subverted and stable governments must be destabilized just to contain the advance of socialism in any country."

The Emergency, then, is profoundly schizoid. The left has been given control of the rhetoric. The right has been granted most of the tangible benefits.

At a party in New Delhi, I met a member of the prominent Oberoi family, which owns the largest hotel chain in India. How was the Emergency affecting them, I asked. "Oh, it's just wonderful," she cooed. "We used to have terrible problems with the unions. Now when they give us any troubles, the Government just puts them in jail."

In Bombay, I met with J.R.D. Tata, the board chairman of the Tata group of industries, the largest industrial giant in the land. Tata's gargantuan office is all cream suede and white leather—a set from a 1930's Myrna Loy-Cary Grant film. Over tea and chocolate cake served on sterling-silver trays, Tata told me why he supported the Emergency: "Things had gone too far. You can't imagine what we've been through here—strikes, boycotts, demonstrations. Why, there were days I couldn't walk out of my office onto the street. The parliamentary system is not suited to our needs."

The Tatas are aristocratic Parsis who are relatively responsible Indian capitalists. But Mrs. Gandhi's closest business allies come from the rought-and-tumble world of "early capitalism"—the entrepreneurs-on-the-make, who see in the Emergency the kind of political and moral climate in which they can amass their millions.

Closest of all to the Prime Minister are the Birla family, who—though they now control India's second largest industrial empire—have few political or business scruples. And, of late, a gaggle of aspiring tycoons have also begun to pay court to Sanjay (who, in a rare interview, recently excoriated his mother's Communist allies and came out foursquare for private enterprise).

I spoke with one young mogul in his office on a Calcutta back street. In 1971, Raj Kumar Saraogi, 30, launched Artwork Exports Ltd. with 200 rupees. Today, he exports ready-made clothing worth more than 100 million rupees (about $1.2 million) annually. Although he speaks only halting English, he spends several months a year striking big deals in Paris, Rome, Stockholm and New York. A bon vivant and ladies man, he spent 25,000 rupees of his first million on a massive hair transplant. When I asked his views on the Emergency, he said, "Personally, I don't believe in politics. I don't have time. But the Lady's doing a good job. You can get things done these days. You can make money. That's all I care about."

But Mrs. Gandhi cares little about either the rhetorical shadow or the tangible substance of the Emergency. She has few real convictions. George Verghese, once one of her closest advisers, says: "She has no consistent vision; everything is tactics." One British journalist aptly described her stand as "slightly to the left of self-interest." The Emergency began solely to keep her in power and that remains its prime reason for being. All else is afterthought, designed to swathe the naked blade of personal power in the sheath of national interest.

According to Mrs. Gandhi, her Emergency was necessary because of a "deep and widespread conspiracy" by J.P.'s opposition coalition (which ranged from the Jan Sangh, a party of right-wing Hindu extremists, to the Maoist Communists).

One Indian official told me the Government had been forced to move by "an unholy alliance of J.P.'s irresponsible demogoguery, Jan Sangh troops, big-business money and foreign forces seeking to destabilize conditions here." The argument is not convincing for a number of reasons.

There are, to be sure, some disturbing ambiguities in J.P.'s recent positions. His calls for a "total revolution" in Indian life—by which he apparently means a moral revolution against corruption—could be misinterpreted. His appeals to the army and police not to obey "unjust orders" could—probably unfairly—be construed as a call to mutiny. And in opening his movement to all comers, he has embraced some political extremists—notably the Jan Sangh—who make his other supporters uncomfortable. But J.P. is simply not an irresponsible demagogue. His roots are in the nonviolent tradition; he has no apparent ambition for personal power.

The Rashtriya Swayamsevak Sangh, commonly known as the R.S.S., are a tightly disciplined band of volunteers between the ages of 12 and 21, but they can hardly be called "troops." Pictures of material seized from the R.S.S. offices after the Emergency primarily show long wooden staves and wooden swords. I asked Om Mehta, a Minister of State in the Home Ministry, about this and he replied vaguely, "There were some metal swords, too." Even with some metal swords, I asked, how could boys with staves pose much of a threat to a superbly equipped army of about one million men, the Border Security Force of about 85,000, the Central Reserve Police of about 57,000 and some 755,000 state policemen? "Well," Mehta said, "there were undoubtedly some rifles, too." "Did you seize any?" I asked. "No," he said. "But they probably kept them at home. Don't underestimate these people's capacity for mischief."

J. P.'s coalition has received some contributions from big business. But every year far more industrialist money pours into the coffers of Mrs. Gandhi's Congress Party, which—since it has been in power since 1947—can deliver a quid pro quo.

For months, Mrs. Gandhi has directly or indirectly pointed her finger at the C.I.A., accusing it of attempting to "destabilize" the Indian situation. But she has persistently refused to provide evidence. When I asked on what she based her charges, she replied, "Do you think that President Allende [of Chile] would have given any description if you had asked him one week before [his assassination]? . . . I know nothing about the C.I.A. except what I have read in your own newspapers and the books that have appeared. Some of the people who are mentioned in some of these books have been in India, too." A few days later, I met a high-ranking R.A.W. official. "Does R.A.W. have any evidence that the C.I.A. has been trying to 'destabilize' the Indian situation?" I asked. "No," he said. "I should have thought your chaps had enough on their plates for the moment without worrying about us."

The real threat J.P.'s coalition posed was that it might unite the opposition to unseat Mrs. Gandhi's party in the national elections that had been scheduled for early this year. Indeed, it gave fair warning of this in mid-June when it won a slim majority in Gujarat. But even this wasn't what triggered Mrs. Gandhi's extreme measures. The threat to which she responded last June came not from the opposition but from within her own party.

During the spring, various Congress Party M.P.'s were growing restless with Mrs. Gandhi's leadership. One group of about 50 "Young Turks" began meeting to consider their options. Another 70 or so—supporters of Agriculture Minister Jagjivan Ram—began their own caucuses. This was the situation when suddenly, on June 12, Mrs. Gandhi suffered two devastating blows: first, the results of the Gujarat elections, and second, the Allahabad High Court's decision that she was guilty of two "corrupt practices"—use of a Government official to "further her election prospects" and use of state officials to "construct rostrums." The offenses were minor, but the conviction posed a serious problem because the Allahabad judge barred her from elective office for six years. If forced to resign her seat in Parliament, Mrs. Gandhi would have to resign as Prime Minister within six months.

In the days following June 12, ferment built rapidly within the Congress Party. There were reports that the "Young Turks" and Ram's forces might join hands with the opposition to support a motion of "no confidence" in Mrs. Gandhi. Some of the Prime Minister's advisers suggested that to forestall such a move, she might resign until the Supreme Court ruled on her appeal. Under their plan, she would retreat to the Congress Party Presidency while one of her trusted subordinates—Defense Minister Swaran Singh or Siddharta Ray—kept her place warm. But this option was scotched when Jagjivan Ram warned that he would put up a fight for the Prime Ministry.

Even before Ram's warning, Mrs. Gandhi probably realized that if she resigned she would never get her job back. This instinct was reinforced by a faction of "left-wing" advisers—Barooah, Haksar, Ray and Rajni Patel—who feared they would be shunted aside if Ram came to power. It was at this juncture that Sanjay urged his mother to seize full powers and "teach those people a lesson they'll never forget."

Since June 26, Mrs. Gandhi has withdrawn further into the recesses of her closely guarded house. Visitors who are ushered into her presence find her strangely distracted. When I saw her on Dec. 1, she rambled through her lengthy answers in a dull, toneless voice—a sharp contrast to the animation she displayed during my first interview with her some eight years before. Only her hands betrayed her nervousness as they played restlessly over the desk, arranging and rearranging papers, a letter opener, pins and pencils in neat, rectangular patterns.

In person, she cultivates a softness in sharp contrast to her tough public stance. When a Canadian journalist noted recently that many Indians were afraid of her, she replied, "I think it is funny anybody should be frightened of me. I am such a meek and a mild person." I asked her why so many people saw her differently from the way she saw herself. "I don't think anybody would have tolerated what I have tolerated over the years either in terms of the type of false propaganda or the allegations, the calumny, the hatred," she said. "But I took it all with a smile."

And, as she sees it, she is only behaving as any mother would. "What do you want for your child? No mother wants harm to the child. And yet there are times when you have to be strict with the child. He may have desires which, if you fulfill, they are harmful."

Mrs. Gandhi treats her different children differently. She depends on the passive acquiescence of the downtrodden, nonpolitical peasantry and the active complicity of the kulaks and large industrialists. And she largely writes off everybody in between: the small urban middle class, shopkeepers, intellectuals, professionals and activist students.

There is profound irony here, for many of these people are just the ones who most fervently welcomed her election 10 years ago. "The night she became Prime Minister, we had a big party and toasted her in champagne," one professor recalls. "She was cosmopolitan, Western, modern, secular. We saw a new age dawning. Now she has turned on the very people she was closest to."

Since the Emergency, authorities have cracked down hard on India's universities. On July 7, the Central Reserve Police surrounded the dormitories of New Delhi's Jawaharlal Nehru University, arresting 60 students, 10 of whom were kept in prison for weeks. At Delhi University, 126 professors were arrested in the middle of the night, handcuffed and dragged to jail. On Nov. 3, L. B. Keny, a distinguished historian and presi-

dent of the Teachers Association of Bombay University, was arrested. The prime target of this crackdown is the Jan Sangh, which has widespread support among North Indian students, as well as shopkeepers and professionals.

In part, she has met the threat of the Jan Sangh by seeking to preempt its ultranationalism. The army's victory in Bangladesh, the explosion of a nuclear device and the launching of a satellite all revived Indians' pride in their nation. More recently, she has fed the fires of nationalism with lesser fuel: Government hotels have been required to replace their Western entertainment with Indian songs, folk dances or sitar performances; New Delhi's streets, long named for British colonial administrators, have been nationalized (Hastings Road has become Krishna Menon Marg) and she personally ordered a woman television announcer to change her Western hair style to the Indian bun.

For the moment, though, Mrs. Gandhi has a much more effective weapon for damping down unrest among the urban middle class. City dwellers, India's prime consumers, are most affected by fluctuations in supply and price, particularly of grain. And today food is more plentiful than at any time in recent years and prices are largely stabilized. Indeed, India is probably completing the best six months in its economic history.

Mrs. Gandhi's propagandists claim that this is largely the result of the "miraculous" Emergency. But, in fact, the Emergency has little to do with the economy's regeneration. The single most important factor is the good monsoon last summer—following several disastrous ones—which not only paved the way for a record food-grain crop (114 tons) but swelled the rivers which feed the country's vital hydroelectric system. Moreover, the country is also reaping the benefits of a credit squeeze imposed before the Emergency, which has, at last, brought runaway inflation under control. The only Emergency measures which can legitimately be credited with any role in the current economic upswing are the crackdowns on smuggling and black marketeering.

Officials love to boast about the new sense of "discipline" in the land. It is true that Government workers—and even some in private industry—now get to work on time. They take shorter tea breaks. They form orderly bus queues. The Railways Minister told me—as if nobody had ever said it before—"The trains now run on time." But these are cosmetic changes.

The question remains: What happens when the monsoon fails again, setting off the inevitable cycle of drought, famine and urban unrest? Will Mrs. Gandhi be able to survive the disenchantment?

She is taking no chances. When I left India in mid-December, there were still some who believed she might reverse her course and gradually restore some personal and political liberties. Instead, she has moved in the opposite direction—postponing for at least a year the national elections scheduled for this spring, ruthlessly taking over the governments of Tamil Nadu and Gujarat, the last two states controlled by the opposition, and relentlessly restricting the few remaining civil liberties.

The law has been reduced to a mere servant of the regime. Under the Defense of India Act and the Maintenance of Internal Security Act, the Government now arrests anyone it wants and holds them as long as it likes without charges. The ancient right of *habeas corpus* is no more. In recent arguments before the Bombay High Court, a Government attorney contended that the regime could starve prisoners or even shoot them without legal challenge.

India's most prominent attorney is Nani Palkhivala, who represented Mrs. Gandhi in her election case until he resigned in protest on the evening of June 26. Arguing another case recently, he declared: "In this very large country there are only a few hundred square feet where a man may speak freely." Several weeks later, Palkhivala told me he was referring to the courtrooms of India, and warned that "even those few square feet are being reduced every day. If this Government is allowed to have its way, freedom will perish altogether in India."

Indeed, Mrs. Gandhi seems to be moving toward even more drastic changes in the guise of "constitutional reforms." One still-secret Government document—slipped into my hands by a dissenter—calls for a full-blown Presidential system which would guarantee "the unobstructed working of the executive." The legislature, "unlike the U.S.A., will not be too independent of the executive." The Supreme Court would be abolished along with the whole concept of independent judicial review. The reform would assure that the powers of the executive are not "frittered away in fruitless debate and discussion." In fact, by institutionalizing the accretions of executive power during the Emergency, the plan appears to be a blueprint for outright dictatorship.

There are those who ask: What does it matter? They contend, with some justification, that the Emergency has little impact on the lives of most Indians. Moreover, they argue that life in India today is not very different from what it was 10, 20 or even 50 years ago. The subcontinent moves to deeper rhythms, in which the rains, the crops, disease, poverty, birth and death are the timeless constants.

"Life is instinctive here, like a salmon swimming upstream," an Indian architect told me. "I spend much of my day dealing with steel and concrete, and then suddenly my whole background rears up at me. One of my employees asks me for a loan. 'The devil has possessed my mother,' he says. 'I must take her on a pilgrimage to the seven holy places.' The horror of it!"

And the most relentless constant in Indian life is the birth rate, which now adds 13 million Indians to the population every year. When I left India in 1967, there were roughly 500 million Indians. When I returned, there were 600 million.

When I asked Prof. Purushottam Lal of Calcutta University how things had changed in my absence, he smiled and said, "Things are always getting better and worse in India at the same time. Twenty-five years ago, there were 50 students in the M.A. English program here, of whom five were as good as any in the world and 45 ranged from fair to terrible. Now there are 300 students in the program, of whom 30 are of world standard and 270 range from fair to terrible. And so it is in every aspect of Indian life. Because there are so many more of us all the time, there is always more good and more bad." Lal's Law operates everywhere. There are far more telephones in Delhi today than when I worked there. But the increase has required installation of a device called the "cross bar" which makes dialing nearly impossible.

Finally, there are those who argue that India was never a real democracy, that most Indians never participated in the old Indian political system. That may be true. But even if only 30 million Indians played some active role in the old system, that is 29,999,998 more than today, when only two—a mother and her son—make any significant political decisions. In less than a year, the second most populous nation in the world has gone from a relatively open system to a rigidly closed one. That should matter to all Indians—and to us.

[From the (London) Economist, May 29, 1976]

LIFE WITH MOTHER INDIA

Indians were inveterate talkers before Mrs. Gandhi proclaimed her emergency a year ago and, now that the initial shock has worn off, they are inveterate talkers again. Neither the suspension of the right to free speech nor the threat (and, all too often, the reality) of arbitrary arrest has stopped the gossip, the argument, the philosophising that once characterised one of the most open—and garrulous—societies in the world. Only the quotient of rumour has gone up because verifiable facts are so scarce. But just as a visitor begins to be lulled into the sense that nothing has really changed, an old friend unplugs a telephone, moves into the garden or simply lowers his voice. And reminds one that after the last foreign journalist moved freely through new India and published his thoughts, an official task force was formed to track down his every source.

The telephoneless millions of course have no worries about taps and bugs. Urban intellectuals, who have never got much closer to their impoverished neighbours than the foreign passers-through, concede the government's point that the poor have felt the 11 months of emergency mainly as a period of lower prices. The impact will come, they say, when a harvest fails or the poor man finds that he too has no redress against the small-time autocrat whose powers have been enhanced along with those of his superiors.

But the poor are not the only people in India for whom economic survival comes first. The fear of losing a livelihood is what prevented more than two top civil servants from resigning in protest against the emergency, it is what stopped more than a handful of opposition members of parliament from giving up their seats and it is what stops thousands of journalists from abandoning what has ceased to be a profession.

The writers on India's censored newspapers are a demoralised lot. Some have retained a sense of integrity by writing in coded political jabs which are opaque enough to pass the censor, and usually the reader as well. Others have withdrawn their bylines from written-to-order copy. An editor can assert his independence occasionally by failing to publish an editorial praising a given government act. But with the censor imposing positive guidelines—a telephoned order to print such and such a story on page one—as well as negative ones, leeway is extremely limited and most editors find it safer to conform. Where editors have resisted they have been replaced. Virtually all conversations with pressmen end with a query about alternative employment.

Lawyers are another group directly affected by the rash of new restrictive legislation. But only a few have gone to battle in defense of the legal system, contesting the curbs on civil rights in the courts, usually without a fee; the rest concentrate on practices that continue to be lucrative despite the recent supreme court judgment banning suits based on habeas corpus. Judges have come under particular pressure lately as a result of government orders to transfer 62 high court jurists to distant benches. A Delhi judge who ruled against the government in a key case involving an imprisoned journalist has, for example, been reassigned to Assam. This kind of treatment—legal but unprecedented—is likely to lead both to reduced judicial independence and to a growing reluctance among lawyers to take on such thankless and ill-paid jobs.

Businessmen are a happier group, largely because of the recent budget which confirmed the rightward shift in economic policy that began before the emergency and has since been reinforced by Sanjay Gandhi's pro-business bias. But while praising the new efficiency and responsiveness of the bureaucracy, business executives admit that opportunities for bureaucratic blackmail have also increased.

The drive against corruption which is one of the flagships of the emergency has turned out to be a convenient cover for dealing with

anybody who is defiant or uncooperative. A flagrant example which is currently going the rumour round is that of the former air chief marshal and head of Indian Airlines, Mr. P. C. Lal. When Mr. Lal learn that executives of his airlines were being hired and fired from above without his approval, he protested to the prime minister, only to be told that officers obey orders or else. His resignation was accepted the next day and shortly afterwards his house was raided by the police. Another related technique of intimidation is the investigation of back taxes. One prominent Indian who refused a government appointment is now having to cope with the reopened tax returns of his dead father.

The effect of the emergency on genuine corruption is difficult to measure. Some people have been fired from the civil service, mostly at lower levels, but notably not a single Congress party functionary has been hit. Congress continues to extort funds from business houses but in a different manner from before. Bucketmen are no longer sent round to collect secret caches of cash (companies are prohibited by law from contributing to political parties). Instead whole industries are given an annual target for contributions to certain select charities which are known to serve as conduits for party funds. These include the prime minister's relief fund (which a 1975 law freed from an external audit) the Jawaharlal Nehru Memorial Center in Bombay and the Jaslok Hospital Research Centre. The party also collects money from industry in the form of expensive advertisements in party brochures.

Opposition parties, on the other hand now find that contributions from business have completely dried up. The few opposition leaders who are out of jail and above ground have few illusions about their chances of combating Mao Gandhi's big money machine. But they insist that parties can survive, as the numerous underground newssheets have, on small contributions. (The home ministry announced two weeks ago that 7,000 people had been arrested for distributing undeground literature and 34 presses closed down.)

Opposition spokesmen are realistic about the difficulties of producing some unity in their own broken ranks. They were unable to rally opposition members of parliament behind a call from the imprisoned Socialist leader, Madhi Limaye, to resign their seats in protest against the postponement of the elections. And they were unable even to unite behind joint candidates in the recent indirect elections for the upper house. But they have nonetheless decided to form a single opposition party to fight the Congress party if an election should be held.

Representatives of four parties—Jana Sangh, Socialist, opposition Congress and BLD (People's party)—met in Bombay last weekend to agree on the common policy platform. They had the blessing of Jayaprakash Narayan, the leader of last year's anti-Gandhi campaign, who has been effectively tied to a dialysis machine in Bombay since his release from jail several months ago, One of the opposition leaders who did not make it to Bombay was Charan Singh of the BLD who was released from prison in mid-April and immediately delivered a blistering four-hour speech in the state assembly of Uttar Pradesh. He since reported to have been re-arrested.

Politicians are still hoping against hope for a return to the pre-emergency status quo. But quite a large number of businessmen and intellectuals seem to have accepted Mrs. Gandhi's analysis that the old system had failed—because it had produced low growth or because it was unresponsive to popular needs. Although few of them accept her remedy for curing it—the setting up of an apparent dynasty built on fear and calls in the night rather than any real economic reform—they agree that the system should be changed.

A group of intellectuals is working on a new political framework to counter Mrs. Gandhi's plan—which seems to be to institutionalise the emergency. A prominent political scientist, Rajni Kothari, put some ideas forward in a recent issue of Seminar, one of the last free publications left in India. On the argument that the key to democratisation is decentralisation, he proposed breaking up India's 22 states, and 200-odd districts into smaller units, and setting up directly-elected councils at district level as well as in the states and at the centre. He also urged the decentalisation of political parties, state-financed elections and limits on the terms of cabinet ministers.

The problem with such worthy prescriptions is that they assume a free marketplace of ideas. And, despite the claims made for Mrs. Gandhi's "national debate" on proposals for a revised constitution, free is what India is not. Until Mrs. Gandhi and her son show some willingness to share power with others—or are forced to do so—plans for tinkering with the system or even for revising it entirely, as Mrs. Gandhi seemed set on doing earlier this year, remain irrelevant. Democratic forms can assist the functioning of a democracy but they can also be used to disguise its opposite. This is what Mrs. Gandhi's frequent protestations about preserving democracy are doing today.

SHE DID WELL, DIDN'T SHE?

At this week's meeting in Paris of the consortium of about a dozen wealthy countries that provide India with aid, Indian government officials have undoubtedly been trying to explain away an embarrassing increase in gold and foreign exchange reserves estimated at $2 billion at the end of April.

Several favourable factors have been at work in the past year. First, the trade gap declined, albeit modestly, compared with the previous year. This was made possible by an impressive 7% increase in exports at a time when most other non-oil developing countries were finding it extremely difficult to maintain export levels. Slack domestic demand together with sizeable earnings from sugar, silver, garments, leather and leather goods and marine products accounted for this performance. Import growth was kept down to a modest 2.4% despite record food and fertiliser imports. This was partly because no increase was permitted in the value of petroleum imports, and partly because relative industrial stagnation provided little impetus for import growth.

Second, the trade gap was more than covered by a substantial increase in net aid, which rose from $1,000m in 1974–75 to just over $1,500m in 1975–76. This was due both to a 21% increase in gross disbursements by the consortium countries and to a handsome contribution from members of the Organisation of Petroleum Exporting Countries.

Third, a totally unexpected windfall came from private remittances. These are estimated to have provided more than $500m in 1975–76, partly as a result of the depreciation of the official exchange rate of the rupee and the appreciation of the free market rate. This narrowed the margin between the official and free rates, and thus increased the attraciveness of remittances through official channels. Another factor was the stringent measures against smuggling operations financed through the black market in foreign currency.

The outlook for 1976–77 seems fairly good. The trade gap will almost certainly be wider, but probably not as wide as the World Bank's estimate of $1,650m. If exports repeat last year's performance and grow by 6–7%, a not unreasonable prospect, they could total $4,-800m. After the bumper crop the foodgrains buffer is already in excess of 10m tons. Food imports will therefore be lower, provided the monsoon is near normal. Fertiliser imports are also expected to fall. But with the recovery in industrial production and investment expected in 1976–77, maintenance and investment goods imports will rise sharply.

Assuming imports reach World Bank projections of $6,200m, the total financing requirement, including debt servicing, will be $2,260m. The World Bank estimates disbursements out of the aid pipeline, which has currently swollen to a massive $4,000m, to exceed $1,500m. That leaves a gap of $750m to be financed out of disbursements from fresh commitments made in 1976–77, private remittances, and other net invisible earnings. Disbursements from fresh commitments alone exceeded $1,000m in 1975–76. This level may not be sustained in the new year because of an expected decline in the disbursement of OPEC commitments. But it does look as if India will be in a position by March, 1977, to have repaid some of its obligations to the International Monetary Fund without a significant decline in the level of its reserves.

Because of this relatively optimistic prospect the World Bank has not set a target for fresh commitments in 1976–77. But the bank's annual review of the Indian economy stresses the inherent uncertainties. A poor monsoon and a below-average export performance could change the picture quickly. The high level of reserves masks the heavy borrowings from the fund ($800m) that made it possible. But, more important, if the Indian economy is to move out of the relative stagnation of the past decade the current efforts to stimulate the level of investment must be accompanied by a sizeable increase in aid flows in the years to come. The bank clearly approves of the government's economic strategy and calls on the aid community to "continue to respond to India's needs with no less vigour than was displayed during the recent crisis years".

INDIA'S BALANCE OF PAYMENTS[1]

[In millions of dollars]

	1974–75	1975–76[2]	1976–77[3]
Exports, fob	4,180	4,470	4,800
Imports, cif	−5,670	−5,800	−6,200
Trade balance	−1,490	−1,330	−1,400
Debt service	−779	−785	−860
Gross aid	1,766	2,210	[4] 1,510
IMF transactions (net)	530	130	−45
Miscellaneous capital and invisibles (net)	−65	575	350
Use of reserves (− =increase)	38	−800	[5] 445

[1] Financial year April–March.
[2] Provisional.
[3] Economist estimates.
[4] Excludes disbursements out of fresh commitments in 1976–77
[5] Represents unfinanced gap to be covered by disbusrements from fresh commitments or change in reserves.

DESEGREGATION AND THE CITIES PART XVIII—THE FACTS ON VIOLENCE

Mr. BROOKE. Mr. President, one of the most frequent arguments about school desegregation concerns its relationship to violence in the schools. Because of the evident public concern about this issue Senator JAVITS and I recently posed a series of questions to the Justice Department's Community Relations Service, the Federal agency responsible for mediating racial conflicts. In the agency's response Assistant Attorney General Ben Holman has drawn on the Service's experience in hundreds of cases. The response is important both for what it says about the greatly overblown public perception of the danger of violence and for the very constructive

proposals for positive programs to minimize racial conflict in desegregating schools.

The experience of the Justice Department indicates that there are many school systems where the entire desegregation process is carried out without any injuries. The large majority of racial conflicts the CRS deals with in schools are not in systems implementing desegregation plans. Careful planning for desegregation in Detroit resulted in a decline in the number of racial incidents from the level before desegregation. Elementary school integration almost always occurs without significant conflict. Much of the violence that does occur is committed by parents outside school buildings. There is no evidence of physical danger to white children bused to inner city schools; in fact the extraordinary procedures to protect children often mean that they are safer than elsewhere in the city. Violence usually declines markedly, where it occurs, once the transition to desegregation is completed.

The evidence produced by the Justice Department shows that an extraordinary social transformation in our schools usually takes place with remarkably little conflict. Considering the emotions generated by the often bitter public debates over the issue, this record is a tribute to the good sense of the American people and to the responsible school officials. If communities would heed the good advice provided by the Community Relations Service for avoiding confrontations and parent's groups opposing busing would follow the good example of their children, desegregation could become increasingly peaceful.

The Assistant Attorney General's report on the national record shows that significant violence is very uncommon, occurs mostly outside the schools, and can often be avoided through effective planning. Most communities, in fact, succeed in repairing a basic social and constitutional defect of their educational systems without experiencing as many injuries as can be expected on any high school football field on any fall Friday night. This problem has been blown way out of proportion and I hope that the Justice Department's report receives the serious attention it deserves.

Mr. President, I ask unanimous consent that the Assistant Attorney General's report be printed in the RECORD.

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

COMMUNITY RELATIONS SERVICE,
Washington, D.C., June 10, 1976.

Senators EDWARD W. BROOKE and JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATORS BROOKE AND JAVITS: In response to your inquiry regarding trends in incidents of violence associated with school and housing desegregation, I have prepared the following comments which, I hope, will help clarify some commonly held misconceptions about school desegregation. Experience on the part of the Community Relations Service (CRS) indicates that there are many myths surrounding housing and educational desegregation which are simply not supported by the facts. These myths are nonetheless widely propagated by the opponents of desegregation, in part out of lack of knowledge of the true facts, but sometimes also purposefully to impede the process. In answering the questions posed in your letter, it should be noted that the Community Relations Service does not maintain comprehensive statistics on violence or civil disturbances. However, during the course of our conciliation and mediation services, we closely monitor the development of problems and work with all sectors of the community to develop strategies for reducing violence and tension when they do occur. On this basis, CRS is in a unique position to accurately describe the effects of educational and housing desegregation on the general population.

Question 1. How many serious injuries are there in a typical recent year?

In a typical recent year, most schools, including those which have undergone recent desegregation, had no serious injuries.

In fact, to date, Detroit, which began implementation of court ordered segregation in January of this year, actually reports a decrease in the number of injuries resulting from racial incidents; of the 15 injuries reported, only one was serious and required hospitalization. This decrease was due to better planning and preparedness by all responsible officials. CRS has closely monitored the incidence of violence in Detroit schools during desegregation, and we have determined, without question, that where there were problems, there was inadequate preparation. CRS played a significant role in developing the plans, models and mechanisms which helped to minimize violence and disruptions.

In spite of the publicity which Boston has received over recent years and the reputation for violence which it has developed, only three of its 19 high schools—South Boston, Hyde Park, and Charlestown—have had repeated racial problems; of these three schools, only Hyde Park and South Boston have had several injuries, of which one required overnight hospitalization. Charlestown's only injury resulted when an aide tried to break up a fight, fell down the stairs, and was injured. Most of the violence which occurred in Boston did not take place inside the schools, but rather on the streets, as a result of confrontations and antibusing demonstrations. In fact, the attached newspaper article quotes Boston Police Commissioner Robert DiGrazia as saying that there have been 272 desegregation related injuries, of which 177 were police officers. Most of these did not occur inside schools.

In contrast, a city like Springfield, Massachusetts, in the same State, has had no injuries related to desegregation at all. Neither have other major desegregation efforts which took place in cities such as Stockton, California, Corpus Christi, Texas, Beaumont, Texas, New Roads, Louisiana, Baltimore, Maryland, and Racine, Wisconsin.

Question 2. What are the main causes?

Most desegregation related injuries within the schools are the result of fights between black and white students. However, the reasons for these fights vary, and could often have been prevented if better planning with more sensitivity to the concerns of both majority and minority students had taken place. Some of the causes for interracial conflicts include:

The continued use of racially inflammatory symbols, such as a confederate flag, "Dixie" as a school song, or athletic teams known as "Rebels". All of these suggest to students that even though both black and white students attend the school, it in fact belongs to the white students and the white community, making the promotion of racial harmony within the school impossible.

Discipline procedures, rules, and regulations that are not clearly defined or realistically thought out inevitably resulting in a disproportionate number of minority students being suspended, and usually suspended for longer periods of time.

The lack of grievance procedures or other mechanism which allow for the identification, discussion, and resolution of problems before they reach a crisis or confrontation stage.

Improper training of staff, particularly teachers and administrators, in preparation for working with and relating to a multiracial/multi-cultural student body. The insensitivity and subtle racism which staff sometimes display often results in tension and frustration among minority students, which, in turn, leads to confrontations and fights. CRS has found that the cause of many confrontations between black and white students is not so much real hostility between students as anger and frustration with staff which is, instead, directed at other students.

Outside agitation and inciting of hostility from the surrounding community which creates and encourages confrontations and violence within the schools. This includes such incidents as demonstrations around the schools, racist literature and slogans, stoning of buses, assaults on minorities, and threatening of those trying to comply with the court order. These kinds of activities continued and have sustained the level of tension in areas like South Boston and Louisville. In fact, Police Commissioner DiGrazia of Boston feels that such demonstrations and the perpetration of violence to protest desegregation are further encouraged by the failure of the local court system to back up efforts of the police department to stop violence. He points out in the attached article that of 937 desegregation related arrests, not one has resulted in a jail sentence, thus encouraging continued disobedience of the law, and violence.

Question 3. Is there a sharp decline in problems after the first year or two of desegregation?

The area in which CRS has been best able to see the results of desegregation over a number of years has been in the Southeast, particularly in Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina. CRS was engaged in a major effort there to prevent or reduce incidents of violence and tension resulting from desegregation during the 1970–71 school year. A look at those States over the past three years indicates that we have had to respond to a decreasing number of education related incidents of racial conflict. We responded to 38 such cases in 37 communities in 1973, 20 in 1974, and 16 in 1975. In an individual State comparison, Alabama shows an increase in 1975 over 1974 activities, and Georgia shows an increase in 1974 activities as compared to the 1973. However, even with the recorded increases in Alabama in 1975 and Georgia in 1974, the overall yearly totals decreased in 1974 and 1975, respectively.

As indicated in the CRS Annual Report of 1974, school racial problems continued to demand a major portion of CRS' time and resources in the FY 1974. The agency conciliated and mediated 190 school disputes—more than any other category. However, most of these disputes occurred in communities other than the Deep South—in the North and the border States.

Question 4. Has the Community Relations Service worked out procedures and recommendations that avoid needless friction in newly integrated schools?

"Twenty-six percent of the CRS caseload involves racial confrontations in the schools. Less than one-quarter of these involved school systems at some stage of the desegregation process. CRS has found that the problems attendant to desegregation merely bring to the forefront problems that are already existent within the school system prior to desegregation. The changes taking place as a result of school desegregation

highlighted those aspects of the institutional system which were already the source of conflict and tension, such as lack of a sufficient number of counselors, irrelevant curriculum materials, unenforceable conduct and dress codes, and inadequate mechanisms for parent participation in school decisionmaking processes. In all school responses, whether related to desegregation or not, CRS recommends and assists in the implementation of procedures designed to reduce violence and encourage interracial cooperation. A description of some of those mechanisms is provided in Attachment B.

Since 1974, CRS has been named in seven court orders to assist the community and court in the peaceful implementation of a desegregation plan. The activities of CRS in the Detroit case, described here in Attachment D, illustrate further some of the recommendations and procedures advocated by CRS as a means of achieving desegregation without violence.

Question 5. Is it true that elementary school integration almost always takes place without incident?

It has been the CRS experience that desegregation on the elementary level is not attended by conflict and confrontation to the extent that it is at the junior high and senior high school levels. In fact, it is seldom attended by conflict within the school at all, and we can say with a wealth of experience behind us that the advent of desegregation at the elementary level usually occasions no conflict or disruption.

The only incidents which have taken place in relation to the desegregation of elementary schools have been those protests or demonstrations by adults which have occurred in opposition to desegregation or "busing" in general. We are not aware of any serious injuries taking place within elementary schools as a result of desegregation.

Question 6. How much of the problem is caused by people outside the schools, as opposed to students?

Experience has shown most major conflict situations are precipitated by people or forces outside the school. Parents and proponents of causes usually are the culprits in these conflict situations. Even those situations that originate among students usually do not grow into major conflicts unless parents and other adults are drawn into them. Another observation we have made is that conflict situations are of shorter duration and more easily resolved and the intensity of the matter is at a greatly reduced level when only students are involved.

Developments in Boston over the past two years indicate the validity of this observation. Inevitably, serious incidents within the schools resulted from or were related to activities or incidents within the surrounding community. The unfortunate stabbing of Michael Faith in December 1974, was the culmination of several weeks of incidents, such as the distribution of anti-black literature in South Boston, the performance of "monkey dances" and shouting of obscenities at black students by adults near the school, and white students marching through school corridors yelling "Niggers eat shit", after meeting in the auditorium with white community leaders.

In contrast to this situation, in the black community, where community leaders were in the streets to encourage students to comply peacefully with the court order, to welcome white students into the neighborhood, and to discourage retaliation when buses with black students had been stoned in areas like South Boston, incidents within the schools were far fewer, and no serious injuries took place within those schools.

Your letter next addresses the frequently heard claim of opponents of school desegregation to the effect that white children transported into inner-city schools confront danger because the neighborhood is not safe. In our experience, there is no substance to this assertion. Even though many such inner-city neighborhoods do have crime rates which are higher than those of other parts of the city from which white children are being bussed, neither experience nor logic suggests any connection between crime rates and the safety of school children being transported to and from schools. If anything, white children being transported within the inner-city are *safer* than in other parts of the city, in part because of community patrols and other measures taken by the minority community to insure that the charges remain groundless.

Finally, you ask about the trend regarding violence and vandalism directed toward minority families moving into white neighborhoods. Our contacts with Human Relations and Fair Housing organizations throughout the country suggest that while such conduct continues to occur, the incidence of such attacks is not increasing nationally. What we have observed is a substantial increase of such attacks in individual cities. Two recent examples for such increase are the cities of Boston and Los Angeles and vicinity. In Boston, a wide range of such violence has been occurring, including rocks and gunshot assaults on houses, firebombs, and burning of crosses; in Los Angeles there has been a recent rash of cross-burnings adjoining housing occupied by black families. In neither city, by the way, are such attacks predominantly upon new residents, and are frequently directed at long term residents of the community. As a result of such attacks, there has been a trend toward resegregation of housing in some parts of Boston, particularly in subsidized housing projects which are already predominantly white In Boston there is reason to believe that the level of such violence is substantially increased by the opposition which exists to the school desegregation which is taking place in the city; in Los Angeles some feel, albeit with little direct evidence, that anticipation of a decision by the California Supreme Court requiring school desegregation in Los Angeles is a factor in the cross burnings there also.

Please accept my apology for the delay in getting this reply to you. My staff is under great demands these days, due in large part to seemingly ever increasing requests for our help in school desegregation situations. Rest assured, however, that within the limits of our resources, we stand prepared to assist you in your important examination of the school desegregation process and consideration of the need for additional legislation.

Sincerely,

BEN HOLMAN.

ATTACHMENT A

[From the Boston Globe, May 27, 1976]

DIGRAZIA SAYS COURTS FAIL TO SUPPORT POLICE

(By John F. Cullen)

Comr. Robert J. diGrazia charged yesterday that the courts have given no effective support to the Boston Police Department since the beginning of the desegregation of the city's schools in 1974.

In a prepared statement, diGrazia said the department's plan to protect school children went into effect in September 1974 and that, despite 937 arrests, no one has gone to jail.

He said 272 persons have been injured, including 177 policemen.

Albert J. Kniupis, said for the department that the police effort, operation safety, has cost more than $13 million.

A court official, who asked not to be identified and who has been involved in most of the arrests diGrazia referred to, said: "The statement by the commissioner is totally ridiculous.

"The police commissioner is fully aware that the court has done its utmost to be fair and objective in each of the cases that has resulted from school busing incidents.

"The police realize, as the courts do, that the vast majority of persons that have been arrested in incidents directly related to the court order are not criminals. They have been persons who have been emotionally drawn into violence that they would normally never commit.

"Certainly this does not in any way justify their actions, but, at the same time, the courts have a responsibility to look at the totality of the circumstances and the character of the individual accused."

Stephen Dunleavy, diGrazia's secretary, said: "The commissioner's position concerning the courts' treatment of arrested persons has not changed. He has always maintained the position that in certain instances swift effective justice and jail sentences, where appropriate, would have a settling effect on the community.

"The police commissioner has spoken to the judges involved on occasion concerning their treatment of those arrested in incidents related to school desegregation, but the courts have done nothing."

Dunleavy said policemen cannot continue to go into the city each day and make arrests and then be "denounced" by judges for their actions.

He said diGrazia feels strongly that the majority of people in the city do not realize how the courts are treating these cases and that the judges must bear responsibility for diluting the effectiveness of the police.

Another police official said: "If the courts desire to make assaulting police officers with rocks, bricks and bottles socially acceptable, then they should tell us what the new guidelines are and not just let people hit the streets with suspended sentences."

ATTACHMENT B

SCHOOL/COMMUNITY PARTNERSHIP RECOMMENDATIONS

Among the steps which CRS recommends to improve the relationship and communication between school personnel, the community, and students prior to and during the desegregation process are the following:

Establishment of biracial or multi-racial parent and student councils in each school.

Open house programs planned jointly by staff, students and parents for current and new students.

Formation of community or neighborhood teams to coordinate the efforts of community and city organizations, particularly for information dissemination and crisis response activities (school, city, police and neighborhood officials, as well as parents and students should participate on this level).

The involvement of biracial parents and students on every level of planning.

Use of parents and community members as volunteers in the schools.

Training for staff on how to work with parents and the community in such areas as extracurricular activities, grievance procedures, curricular planning and analysis, etc., and to view them as a resource rather than an obstacle to educational progress.

COMMUNICATION/INFORMATION

One of the keys to an effective desegregation process is a well designed, implemented, and widely supported communication and information dissemination system; a system which involves not only school and city officials, but all segments of the majority and minority community, including businessmen, clergy, the media, and safety, health and fire officials. Components in this system should include the following:

Rumor Control and Information Center which:

Checks into and verifies or dispels rumors

Answers questions of the public

Keeps media informed

Coordinates the information systems of

schools, police, health and fire units, other city offices, and community resources.

Such a rumor control mechanism is crucial to peaceful implementation, since community protests, concerns, and confrontations are often based on inacculate, incomplete or misleading information.

Public Information Program which:

Involves school, city, and state resources, community and civic organizations, labor unions and businesses, churches, parent and student organizations and media.

Keeps the public informed about new and recent developments in the desegregation planning effort, such as court decisions, school department actions, student assignment plans and criteria, transportation plans, etc.

Apprises students and parents, and the community, of what to expect from the school to which they have been assigned.

Emphasizes the positive aspects and benefits of desegregation, describes positive experiences in other cities.

Disseminates accurate information and facts about busing, the law, the history of desegregation, etc. (The U.S. Commission on Civil Rights has information and statistics which would apply.)

Publicizes positive and supportive statements made by community and city leaders, including pro desegregation and antibusing leaders and spokespersons.

AFFIRMATIVE ACTION RACE RELATIONS

Another key ingredient in an effective desegregation process is a visible commitment not only to desegregation and improved race relations among students, but to improvement in every aspect of the school system. This process should include:

A totally integrated staff, including teachers, clerical staff, administrators, nurses, counselors, maintenance staff and custodians, cafeteria staff, servicing personnel, aides; and a plan to fill more positions with minority staff, where necessary.

Provisions for biracial or multi-racial participation in all extracurricular activities and programs, including clubs, sports, music, student government and press, etc.

Elimination of tracks or program designations which tend to resegregate students within a school.

Training for staff and students on how to deal effectively in a multi-racial ethnic setting.

A review of the curricula and programs to assure that the contributions and history of minority groups are reflected not only in one or two special courses, such as Black Studies or Spanish American History, but throughout the curriculum.

SECURITY PROVISIONS

Adequate contingency plans for preventing and resolving conflict within the schools and on the streets is crucial. Among the steps and measures which CRS recommends to school and police departments are the following:

Student discipline code

a. The development of an effective student discipline code and adequate grievance mechanisms. This involves a coordinated effort by staff, students, and parents to draw up a clearly defined and uniformly implemented and enforced code of discipline. (Please refer to Attachment C for recommendations regarding the content of such a code.)

b. Establishing a grievance mechanism which allows complaints and potential problems to be addressed and resolved before they lead to conflict and violence

c. Planning training sessions and workshops for staff, students and parents to assure that each is familiar with and knows how to use and apply the code and grievance mechanisms.

d. A recordkeeping mechanism which provides quick identification of trends in discipline problems, grievances filed, effective and ineffective discipline procedures, suspension rates, etc.

e. Assurance that there is multi-racial input and participation in every aspect of the above process.

Detailed contingency planning for each school including—

a. Day-to-day security provisions.

b. School/police liaison guidelines.

c. Guidelines for response to emergencies.

d. Special staff assignments.

e. Involvement of community organizations.

f. Effective reporting system and a formal relationship with the rumor control mechanism.

g. Strategies for response to fire alarms, bomb scares, etc.

h. Thorough training and workshops for all staff in handling student disturbances.

Development for External Security (on the streets, around schools, and along transportation routes), including provisions for:

a. Keeping demonstrators away from the schools to minimize tension inside the schools.

b. Effective protection of buses.

c. A program to inform the community that the law will be enforced.

d. Intensified training for all police officers in human relations skills, crowd control, conflict resolution, and in the laws and statutes which police officers must enforce during the desegregation process.

ATTACHMENT C

STUDENT DISCIPLINE CODE

RECOMMENDED CONTENTS

A. Description of the roles and responsibilities of—

1. Administrators
2. Teachers
3. Other staff
4. Students
5. Parents

B. Statement of rights of students, including the right to—

1. an education
2. not to be discriminated against on the basis of race, creed, color, sex, national origin
3. free speech (without disrupting the educational process)
4. choice of dress (including limitations, if any)
5. due process

C. Rules and regulations

D. Offenses and applicable disciplinary action which may be taken. Suspendable offenses should be clearly delineated, and limited to those actions which actually threaten a person or property, and for which no other alternative is available.

E. Description of available grievance and appeals procedures, including names and telephone numbers for persons in each step of the appeal process.

ATTACHMENT D

COMMUNITY RELATIONS SERVICE INVOLVEMENT IN DETROIT SCHOOL DESEGREGATION CASE

In an order filed on April 30, 1975, Judge Robert DeMascio "requested the Community Relations Service, U.S. Department of Justice, to provide assistance to the City of Detroit, to the parties to this litigation, and to the Court in achieving harmonious implementation of a remedial plan to be ordered by the Court and of future long-range plans to eliminate racial segregation to the extent possible in the public schools in the City of Detroit. . . ." It was further ordered that CRS shall inform itself generally of the community relations, related conditions and developments relevant to the formulation and implementation of the desegregation plan ordered by the Court and will further undertake at the request of the Court various specific community relations and related projects which the Court determines necessary to the formulation and implementation of the desegregation plan. . . ."

As a result of both the Court order and the earlier positive response we received from Detroit school officials and community leaders who were familiar with CRS' work in Detroit and elsewhere, the Agency opened a temporary field office to work exclusively on helping the Court and the community to (1) identify potential problems that could arise under a desegregation plan, (2) develop plans and programs that would minimize the likelihood that problems would arise, (3) devise techniques to identify problems promptly if they did arise and (4) develop contingency plans to deal with any problems in a manner that would assure the safety and security of the entire community with a minimum of disruption to the education process. CRS activities during the nine months from the filing of the April 30 Order into the first week of implementation of the pupil reassignment plan included the following:

1. At the request of the Court, CRS prepared an analysis of the school system's Student Code of Conduct and policies on students' rights and responsibilities, recommending ways to assure that disciplinary problems were being handled in an equitable and consistent manner throughout the school system. When a revised Student Code of Conduct was drafted by school administrators and approved by the Court, CRS, at the request of school officials, participated in the training of administrators who would be responsible for implementing it.

2. At the request of the Court, CRS critiqued the Community Relations Program prepared by school officials as part of the school board's desegregation proposal.

3. At the request of police officials, CRS critiqued the operations plan for the Detroit Police Department's special school desegregation task force, and provided the police department technical assistance in planning for contingencies that might arise under the pupil reassignment order.

4. At the request of police officials, CRS provided a panel of experts drawn from CRS staff and consultants to conduct a half-day training session for some 150 police officers assigned to the desegregation task force.

5. At the request of school officials, CRS provided a team of specialists with extensive experience in desegregation who were responsible for the in-school security program and guidelines for school security officers.

6. CRS convened and provided technical assistance in meetings at which police and school officials worked on a coordinated response to problems in and around schools and school property.

7. CRS convened a series of weekly meetings with and helped coordinate the activities of community organizations interested in the use of volunteers to facilitate school desegregation. CRS provided information on how volunteers were utilized in other cities and helped prepare guidelines for the recruitment and use of volunteers. CRS also became the vehicle through which the joint concerns of these organizations were communicated to police and school officials.

8. At the request of school officials, CRS provided technical assistance to administrators responsible for developing training materials for school volunteers, participated in sessions at which school administrators developed guidelines for the use of volunteers and provided facilitators to assist in the training of volunteers

9. At the request of police officials, CRS prepared guidelines for the use of volunteers in crisis intervention and provided a panel of CRS specialists to train volunteers for this work.

10. CRS provided technical assistance in establishing a desegregation communications and rumor control program. Through a staff specialist, CRS provided models from

other communities that had experienced desegregation and helped local organizations prepare a proposal for a desegregation information center that was submitted to the Mayor and Superintendent of Schools.

11. CRS identified anl arranged for an advertising executive from another part of the country to meet with Detroit electronic media executives to discuss media campaigns in support of the court-ordered remedy.

12. At the request of the court-appointed Monitoring Commission, CRS provided information on the functioning of similar bodies in Denver and Boston. CRS assisted the Monitoring Commission in identifying volunteer observers and helped coordinate the activities of the Monitoring Commission observers with other volunteers assisting in desegregation during the first week of pupil reassignment.

13. CRS maintained continuing communication with all parties to the litigation, the Court, City and State officials and organizations whose primary concern was school desegregation. CRS also served at times as liaison between those groups and the Court to transmit information or requests. CRS also provided periodic verbal assessments of community relations aspects of the case to the Court, to others with official responsibility and to interested community leaders.

14. On January 22, CRS Detroit staff of two professionals was supplemented with seven staff specialists who had worked on school desegregation cases in other cities (Boston, Louisville, Indianapolis, Racine, Dallas, Baltimore and Prince Georges County, Maryland). During the week of January 26, this staff was deployed to CRS, school and police command posts and to mobile units to support the local communications network that was able to provide timely and accurate assessments and information on reported incidents. Following staff debriefings at the close of each day, information compiled by CRS staff was shared with top school administrators.

15. Since April 30, 1975, CRS staff met with representatives of more than 125 official agencies and community organizations concerned with the Court's desegregation order, including groups opposed to it, for the purpose of answering questions about the desegregation plan and discussing ways of minimizing the likelihood of disruptions when implementation began. CRS was invited to and participated actively in more than 300 public meetings throughout the city at which the status of the case and strategies to minimize disruptions were discussed.

To accomplish its work under the Court's Order and to provide other requested assistance, CRS since last May assigned a total of 19 staff members and consultants to Detroit for limited periods of time. Generally, the Detroit staff was supplemented by small teams of specialists for several days at a time. The Detroit Office was opened under the authorization of Assistant Attorney General Ben Holman, Director of the Community Relations Service.

WAYNE HAYS AND THE SINS THAT REALLY HURT

Mr. McGOVERN. Mr. President, I ask unanimous consent that my letter to the Washington Post, which appears in today's issue of that paper, be printed in the RECORD.

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

[From the Washington Post, June 26, 1976]

WAYNE HAYS AND "THE SINS THAT REALLY HURT"

Perhaps before there is any more public clamor over the troubles of Congressman Hays, a note of caution should be sounded, lest the outcry over this incident excuses us from thinking about some of the more far-reaching public sins.

Mr. Hays has already confessed that what he did was wrong. He thus joins a long historical procession of kings and queens (including Solomon, David and Cleopatra), presidents, senators, clerics, generals, celebrated housewives, journalists, corporation executives and others who have kept lovers or been kept themselves—sometimes at public expense.

The fact that he joins a renowned company of scandalizers does not, of course, excuse his own conduct. Neither should we excuse the conduct of the central actor in his exposure. When Elizabeth Ray goes public with her story, she does so, not to advance virtue, but because she makes a greater profit selling herself to a publisher than to a congressional payroll.

I know that Wayne Hays has offended a lot of people with his sharp tongue. He used it against me in 1972. He is admittedly an ornery devil, with an apparent need to demonstrate his personal power. But there is also a sentimental, kindly side to Wayne Hays. He loves children, he adores his new wife, he is respectful and thoughtful towards the wives of his colleagues.

These traits do not justify his alleged wrong-doing, but it is important to avoid so much concentration on sensational cases of this kind that we fail to learn lessons from some of the far costlier catastrophes.

A special probe is now going forward on Mr. Hays. Have we, however, probed sufficiently how a great and decent people were drawn into years of senseless killing and destruction in Vietnam? We are told that the conduct of Wayne Hays reflects unfavorably on the whole Congress. If so, who is carrying the burden for the brutal rape of Vietnam, Laos and Cambodia?

We are shocked by the $14,000 wasted on Elizabeth Ray. But how deeply do we comprehend the $175 billion in public funds wasted on the fiasco in Indochina?

We are shocked over the liaison of Hays and Ray. But what will we actually do to discipline a CIA that hired underworld thugs to murder Prime Minister Castro and other leaders of the Cuban nation?

In other words, where is the sense of guilt and the recognized need for atonement over the sins that really hurt? While meting out proper justice to Congressman Hays, I hope such personalized exercises will not supplant thoughtful and corrective action that might move the American nation into a closer union with its professed ideals. I am not yet prepared to believe that all will be well with our souls even if we do elect a President who assures us that the government is now as good as we are.

GEORGE MCGOVERN,
U.S. Senator From South Dakota.

Washington.

UNDERSTANDING SOLAR ENERGY'S FUTURE

Mr. McINTYRE. Mr. President, I ask unanimous consent that an editorial from today's Washington Post, commending the Congress for its foresight in increasing funding for the development of solar energy, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McINTYRE. This is a very balanced editorial; it does not propose any pie-in-the-sky immediate solutions to the Nation's energy problems through solar energy, but it does look forward, as I believe the Congress has, to the day when solar energy can make a major contribution to this Nation's energy needs.

And I wish to emphasize that those of us who are proponents of solar energy are not being carried away in a rosy glow of a world bathed in nothing but sunshine. If there is a Member of the Congress who believes that solar energy is the solution to all today's enery problems, I hope that that Member especially will read this fine editorial.

EXHIBIT 1

[From the Washington Post, June 26, 1976]

LETTING THE SUNSHINE IN

The most appealing new source of energy is the oldest source of all: sunshine. Congress is now in the process of forcing the administration to speed up dramatically the development of solar heat and power. Of all the collisions between Congress and the White House over energy policy, this one is among the most useful. For here Congress is on exactly the right track.

The President's budget asked a rather modest $160 million for the federal Energy Research and Development Administration's solar work over the coming fiscal year. The House Science Committee recommended authorizing $227 million. Instead of paring it down, the House voted—in a resolution with 80 sponsors—to increase it by another $116 million. Congress sometimes votes huge authorizations merely as an expression of good will and best wishes, with no intention of actually providing the money. But in this case the House last week voted to appropriate $309 million. The Senate seems to be moving in the same direction. And all of this is happening despite the tight control Congress has put on spending this year.

What can the country expect to get for this surge of new money for solar development? Solar technologies fall into two broad categories—those that heat and cool buildings and those that generate electricity. They are proceeding at quite different rates.

Heating and cooling by sun power is already here. There are probably more than a thousand buildings of various sorts and sizes, throughout the country, that are using it to one degree or another. The availability of equipment is increasing rapidly; a recent federal survey counted 130 companies that are manufacturing it. The immediate limitation is not inadequate technology but rather inadequate industrial infrastructure. The manufacturers need the capability not only to make the equipment on a large scale but to distribute, install and service it as well. Some of the new money for ERDA will go into attempts to pull the new solar industry rapidly through that phase of growth.

Solar generation of electric power is further off than home heating and cooling. By most estimates, commercial power generation by the sun will become a possibility some time in the 1990s. Here a great deal of engineering research still needs to be done. But, once again, there is good reason to shorten the time that normal commercial development would require. Solar heating and cooling systems help the country meet an immediate danger—steadily rising imports of oil countries that continually threaten to use the oil weapon again. Solar electricity, in a longer future, can reduce the need for massive and rapid expansion of nuclear generation. The congressional votes on the solar energy appropriation are one of the more constructive manifestations of this country's concern about the next generation of plutonium breeder reactors.

But there is a certain danger that Congress will get carried away with the rosy glow of a world bathed in nothing but sunshine. Some congressmen already seem to think that they are buying an easy substitute for a na-

tional energy policy. It's not quite that easy. The promise of solar power does not remove the prospect for higher energy prices ahead, or the need for much more serious conservation. On the contrary, the longer Congress holds the prices of oil and gas artifically low, the less need most Americans will see for installing solar heaters in their houses. As for conservation, it is still this country's most accessible and safest energy source. Even the most optimistic prospects for solar energy over the next decade represent only a fraction of the energy to be saved by a cautious and moderate attempt at conservation.

A HEALTH PROGRAM THAT WORKS—THE WASHINGTON/ALASKA REGIONAL MEDICAL PROGRAM

Mr. MAGNUSON. Mr. President, I shall ask unanimous consent to print in the RECORD an article written by Dr. Donal Sparkman, who is the director of the Washington/Alaska regional medical program, which serves in my home State of Washington.

I want to place this article in the RECORD so everyone here will have a chance to see how a health program ought to be run.

Not by redtape, or computors, or lines and lines of people waiting but by an organization which clearly recognized the need to set up a health system of, by, and solely for the purpose of serving people.

People also made this RMP operate well because the organization never outgrew or lost sight of its purpose to operate and develop an effective and workable health care delivery system.

An effective health care delivery system is something which, unfortunately, this country does not have today—a sad circumstance for such a wealthy nation. But, we are trying to build one, and it is not easy. This RMP program has shown me and thousands in the Pacific Northwest just what can be done if people put their minds, backs, and hearts to work. Dr. Donal Sparkman has had a profound effect on making this a success story.

Mr. President, I ask unanimous consent that the article entitled "The Curious Odyssey of the W/ARMP," be printed in the RECORD.

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

[From the Bulletin of King County Medical Society, May 1976]

THE CURIOUS ODYSSEY OF THE W/ARMP

Federal health programs often appear on the scene unexpectedly, some outlive their usefulness, but few die. Factors which cause programs to appear or disappear don't always seem rational and the federal government doesn't seem to learn from past experience. With this in mind, let us examine briefly the ill-fated course of the RMP.

Just what motivated President Johnson to appoint the Debakey Commission in 1964, was never clear, but this group of health professionals, academicians and laymen, decided that there was a serious gap between knowledge about heart disease, cancer and stroke generated by research and application of this knowledge to patient care. The Commission recommended a national network of regional centers, designed to unite the worlds of scientific research, medical education and medical care. Their lofty plans were scaled down by the Congress, which omitted the recommended centers, but called for the development of regional cooperative arrangements to afford the medical profession the opportunity to make available to patients the latest advances in diagnosis and treatment of heart disease, cancer, stroke and related illnesses.

DEVELOPMENT

The Washington/Alaska Regional Medical Program (W/ARMP) came into existence in the fall of 1966, with the encouragement of Dr. John Hogness, then Dean of the University of Washington School of Medicine, and with approval of the Governors and medical associations of the two States. A Regional Advisory Board, which was to become the policy making body for W/ARMP, was appointed; it had broad representation of health professionals and other citizens from both states. The first projects to carry out the mission of RMP, were approved in the spring of 1968 and additional projects were approved at roughly annual intervals thereafter. Ideas for these projects arose from many different groups. All were subject to careful review by W/ARMP staff, by expert consultants and by the Advisory Board before forwarding to HEW for final decision.

The underlying theme was the development of regional cooperative arrangements and, in keeping with its mandates, many of these were in continuing education of physicians, nurses and other health professionals. Continuing education needs appeared to be greater outside the King County area, and as it turned out, Medical School faculty and practicing physicians in King County carried most of this burden. One early continuing education activity was the Continuing Education Coordinator Network, established jointly with the UW School of Medicine and the Washington State Medical Association. This group met regularly to consider how best to identify and respond to continuing education needs in their respective communities. Early recommendations led to the production of television programs, which were shown throughout the state and received national recognition. Preceptorships were arranged, permitting practicing physicians to return to the Medical School or to the Hospital of their choice for short refresher courses. Consultants were sent out upon request. This two-way flow of people and information, in addition to providing continuing education, led to better understanding between remote physicians and medical centers. Eventually this contributed to the development of the University's WAMI Program, and to other continuing relationships between King County physicians and distant communities.

Discussions held by the Coordinator with leaders in continuing education from around the country, led to recognition of peer review as a better means of identifying continuing education needs. This, in turn, led to the development of the Health Care Review Center, supported jointly by W/ARMP and WSMA; all of this prior to passage of PSRO legislation.

Two other examples of early W/ARMP projects were Medic I and a radiation physicist consultant.

MEDIC I

Recognizing that the "Aid Cars" of the Seattle Fire Department were being called upon to deal with heart attacks, Gordon Vickery, then Seattle Fire Chief, was invited to a W/ARMP sponsored meeting of cardiologists to consider better methods of first-contact-care for acute heart attacks. Discussions between the Chief, Dr. Len Cobb, and others, led to W/ARMP support for the first two years of Medic I. Demonstration that firemen with special training and equipment could successfully handle this difficult problem resulted in its continued funding by the City of Seattle.

In 1968, there was one radiation physicist on the UW faculty in the Northwest to provide consultation service to physicians operating cobalt and other super-voltage therapy equipment. Recognizing the limited time he could provide in consultation, a project was developed to hire another radiation physicist to serve this important function. With the approva. of radiation therapists in the Northwest, the program was set up and from the beginning a fee was charged for the service provided. The program has progressively expanded, now uses a computer to aid radiation therapists in calculating dosages, is self-supporting, as an important component of radiation therapy in the Northwest, and has become a model for replication elsewhere in the United States.

By 1971 the federal view of health care priorities had changed and RMP was directed to modify its mission to include other than heart disease, cancer and stroke and to direct its efforts toward the broad problems of health care delivery, particularly for low income, minority and otherwise poorly served persons. W/ARMP staff adjusted objectives to the new mandate and in the last five years developed activities such as the Health Manpower Clearinghouse and a Nurse Practitioner Training Project.

The Clearinghouse was a modest project designed to help alleviate the maldistribution of physicians in Washington, particularly in rural areas. It coordinated the efforts of the WSMA, other health professional associations and state and federal agencies, each of whom had previously attempted to respond to urgent community requests for help without adequate staff and information. It identified communities in need, before crises occurred and worked with them to determine whether replacement of a physician was their best course. Aggressive recruitment built a sizable list of physicians looking for placement. The project was successful and since termination of W/ARMP support in 1975, has continued on funds from two foundations with reasonable hope that it will be supported by the state or other resources on a permanent basis.

Responding to the inability of some small remote communities to get and hold physicians, W/ARMP, in 1972, selected a small group of nurses, who, after special training, and with physician back-up, have served as nurse practitioners in Darrington, Forks, and Vashon Island. There has not always been unanimous approval of this new health care arrangement, but careful monitoring has demonstrated that their performance is good and community acceptance excellent. In this state and elsewhere in the country, there is increasing acceptance of the nurse practitioner role and the passage of the Nurse Practice Act, by the Washington Legislature in 1973 gave a legitimacy to their function. The UW School of Nursing now provides two nurse practitioner courses and hopes to have support for third.

CHANGE IN SIGNALS

After 1971 federal signals for RMPs changed almost yearly and in 1973, when President Nixon ordered termination of RMPs, it was true, as he charged, that the program's mission had not been consistent. Concerned with rising health care costs and uncoordination of federal health programs, Congress, in late 1974, passed the Health Planning and Resource Development Act of 1974 (PL 93-641), which was designed to combine existing RMPs, Comprehensive Health Planning Agencies and Hill-Burton programs and to put new emphasis and teeth in health planning and regulation. As of thi writing we are still between the old and new, but RMPs terminate June 30, and as it turns out, the "orderly transition" of RMPs into the new Health Systems Agencies (HSAs) doesn't happen. In the State of Washington, the pre-existing CHPs, with some change, will, in at least two stances, become the new HSAs.

There are enough uncertainties regarding the about-to-be-born HSAs that, at this point, one can only speculate how they will work. Two points of concern to physicians are, that there will be meager physician participation and that the new organizations will have significantly greater regulatory authority than has existed in the past. Governor Evans, like many other Governors, is unhappy with the new Health Planning and Resource Development Act, for a number of reasons, such as the way the authority of HEW by-passes the Governor in health care matters.

Looking back, it seems to me that some of the more important accomplishments of W/ARMP were:

1. The way in which it brought together different groups of health providers and consumers to work toward common goals.

2. That it gave the opportunity to many practicing physicians to look beyond their own practices at health care problems and to work toward alleviating these.

3. With innovation and a modest amount of start-up funds, needed health care activities were initiated, which then became self-supporting or supported by other sources.

ADVANTAGES OF RMP

1. Though it was under the direction of the federal government, it had considerable autonomy and flexibility to respond to local needs.

2. It was able to assemble a diversified staff, competent in technical and professional aspects of health care and in community organization. It also benefited from excellent consultant assistance from volunteers who served on its many committees.

3. It had statewide jursdiction with good relations with professional health associations, educational institutions and public health that permitted development of regional or statewide programs.

4. It had the opportunity to serve as neutral party or "honest broker" among disparate provider groups on local or statewide issues.

5. Creativeness and innovation were encouraged in responding to health care needs.

6. Though by definition, it was a part of the bureaucracy, every effort was made to keep it as un-bureaucratic as possible, to respond promptly and directly to questions and issues.

7. It devised and carried out careful evaluations of its activities, a function given lip service by the federal government, but rarely more than that.

If RMP had these advantages and made some notable achievements in the improvement of health care, why was it terminated?

1. With alarming increases in the cost of the federal health care budget it was natural that Congress would consider cost the number one priority. RMP was designed to try out better methods of continuing education and delivery of health care and while such efforts should result in more rational health care arrangements, they had relatively little effect on cost containment. Congress and HEW hope that the regulatory powers of the new Health Planning and Resource Development Act will accomplish this.

2. Relationship with CHP: Theoretically CHPs should have been in existence before RMPs to determine health care needs and set priorities so that RPMs could respond. It didn't happen that way. While in Washington and Alaska relations between RMPs and CHPs were generally good, the relationship was not as clearly defined as it should have been and over the country there were evidences of unproductive competition between the two agencies.

3. RMPs did not fit neatly into the usual federal-state relations through regional HEW offices or State Health Departments. RMP had a degree of autonomy from HEW that was a continuing source of nervousness and dissatisfaction to the establishment.

4. As might be expected, there was much variation in the quality and performance among RMPs around the country.

In my opinion, there is a need for health service development capacity to respond to health care needs, to try out changes and in so doing to involve as broad a segment of health professionals as possible. Though the Health Planning and Resource Development Act includes language relative to health services development or RMP-type activities, its relative importance in the law is indicated by the fact that this section occupies less than a page of a 92-page document describing the Act. Further, the new HSAs are proscribed from entering into health service development activities for at least the first year of their existence and considering their preoccupation with regulatory matters and the austerity of the health budget, there is real question whether such health service development activities will ever become a significant part of their program. Considering the swings in the pendulum of federal health care directions in the past two or three decades it is likely that as the developmental type activities or RMP are missed, a new Phoenix may arise from the ashes.

NATIONAL CENTER FOR HEALTH EDUCATION

Mr. CRANSTON. Mr. President I was proud to learn that the first president of the National Center for Health Education will be Robert L. Johnson, University of California vice president for university and student relations. As more and more recognition is given to the importance of health education in preventing illness and in encouraging the appropriate utilization of health resources, the establishment of the national center last November was a timely event. With the election of Robert Johnson to the presidency of the center, I am confident the center will become a major force among the Nation's health care resources.

CONSUMER PROTECTION BENEFITS CONSUMER AND BUSINESS

Mr. MOSS. Mr. President, with all the talk about regulatory reform and getting Government off of business' back, a recent Ford Motor Co. message to its dealers demonstrates that consumer protection legislation can be beneficial to both the consumer and business. The foundation of consumer legislation is to insure that competition is fostered in the consumer's interest, and in our society competition is the guiding principle. The Ford Motor Co.'s message to dealers uses the Magnuson-Moss Warranty Act as an example of how Federal legislation can benefit both business and the consumer.

As Mr. P. E. Benton, Jr., general manager of Ford Parts and Service Division says in his memo to dealers,

> Complying with these provisions affords an opportunity for the dealer to build a more permanent relationship with his new vehicle customer.

Mr. Benton goes on to say, and I believe this comment is critical considering some of the criticism which has been directed at this important consumer protection measure—

> We believe, however, that rather than a hindrance, the Act affords an opportunity to increase customer satisfaction with our products and to build a more permanent customer relationship with the dealer.

Mr. President: Ford Motor Co. is to be congratulated for its vision, and as principal sponsor of the Magnuson-Moss Act, I wish to thank the company.

I ask unanimous consent that the Ford Motor Co. message to dealers be printed in the RECORD.

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

THE MAGNUSON-MOSS WARRANTY—FTC IMPROVEMENT ACT AND ITS IMPORTANCE TO YOUR DEALERSHIP

ALL FORD AND LINCOLN-MERCURY DEALERS:

The U.S. Warranty and Federal Trade Commission Improvement Act (Magnuson-Moss Act) is of utmost importance to your dealership. First, because there are certain provisions of the new warranty law with which the dealer and the manufacturer must comply. Second, because complying with these provisions affords an opportunity for the dealer to build a more permanent relationship with his new vehicle customer.

The provisions of this new law, effective July 4, 1975, require that the warranty must be labeled "full" or "limited", and its terms made available to the consumer prior to the retail purchase.

Ford Motor Company has complied with the first provision by clearly identifying its new 1976 car and light truck warranty a "limited warranty". You, the dealer, must comply with the second provision by describing the warranty terms to each prospective customer before he signs the buyer's order.

In many cases, regulatory legislation is interpreted as being too biased against the seller and unfairly weighted in favor of the buyer. We believe, however, that rather than a hindrance, the Act affords an opportunity to increase customer satisfaction with our products and to build a more permanent customer relationship with the dealer.

On the following pages of this brochure are described some tools and suggested procedures to assist your sales and service personnel in more effectively complying with the new law.

Please study and review them with your counsel so compliance with their principles will be initiated effectively in your dealership.

Sincerely,

P. E. BENTON, Jr.

USE THESE TOOLS TO COMPLY WITH THE MAGNUSON-MOSS WARRANTY ACT

"Any written warranty that passes from a seller to a consumer must be made available to the consumer prior to purchase. The burden of assuring customer knowledge of the warranty terms rests with the seller."

These two requirements of the Magnuson-Moss Act rest squarely upon the seller's shoulders for compliance. Failure to "make the written warranty available to the consumer prior to the purchase" and not being able to prove that such action was taken can subject the dealer to severe penalties under the Act including the ineffectiveness of any disclaimers and potential monetary damages. Obviously, poor customer relations and bad publicity for the seller could result. On the other hand, using the tools described on these pages enables Ford and Lincoln-Mercury Dealers to comply fully with the new law and, in so doing, build a solid bank of satisfied customers.

"MAXIMUM RETURN" YEAR 1976 NEW CAR AND LIGHT TRUCK WARRANTY VIDEO TAPE

An excellent medium for clarifying the provisions of our warranty to prospective

customers prior to purchase. Let Phil Abbott's audio-visual presentation of the warranty premiums help your salesmen comply with the new law.

The showing of this video tape to each prospective new 1976 vehicle buyer in its entirety, together with proof that he has read and understands the 1976 limited Warranty statement, constitutes compliance with the "Notice Requirements" of the Magnuson-Moss Act. In any event, even if the prospective customer views the film . . . especially if he does not . . . he should be given the opportunity to review the 1976 Warranty Statement as published in the Warranty Facts Booklet.

Approximately ten minutes in length, properly used at the strategic moment, this easily understood explanation of our warranty terms can help close deals by instilling customer confidence in your dealership and Ford-built products.

The message of this tape strongly reinforces your professional service capabilities in handling not only warranty work but all required customer service needs.

1976 WARRANTY FACTS BOOKLET

Spells out the exact legal terminology of the 1976 limited warranty provisions, defines the special pro rata warranty on batteries, refers to tire adjustments by the tire manufacturers and answers a list of frequently asked warranty questions.

The booklet explains in depth warranty information that the video tape could only briefly present. While the booklet is placed in the glove compartment of each 1976 car and light truck, equip your salesmen with extra copies to use as an authoritative reference when answering questions from prospective buyers.

1976 OWNER'S MANUAL

An effective selling tool in convincing new and repeat customers that their 1976 vehicles should come home to your dealership for the scheduled maintenance, as outlined in the Owner's Manual, plus any needed warranty work.

Like the Warranty Facts Booklet, the Owner's Manual is referred to in the 1976 warranty video tape and salesman should have copies to use for any additional information prospective buyers may request. The customer's permanent copy will be placed in each new vehicle's glove compartment.

RETAIL BUYER'S AGREEMENT

A simple form signed by your buyers of new vehicles offers proof that your dealership has complied with the requirement of the Magnuson-Moss Act which places the "burden of assuring consumer knowledge of the warranty terms" with the seller.

Should the question ever arise as to whether or not the provisions of our 1976 New Car and Light Truck Warranty have been explained to a particular purchaser, that purchaser's signature on the Retail Buyer's Agreement form would dispel any doubts. Use it with each and every 1976 model deal.

USE MAGNUSON-MOSS TO BUILD CUSTOMER CONFIDENCE AND CLOSE SALES

Only a few simple steps are necessary to train your sales force in taking action to comply with the law and using the procedure as a possible stepping stone to closing more sales.

Acquaint all your sales staff with the new Magnuson-Moss Warranty Act and its two basic provisions:

a. that our 1976 warranty must be designated as a "limited warranty"

b. that the seller is responsible for making the terms of the warranty available to the buyer prior to the retail purchase.

Preview the 1976 warranty video tape entitled "Maximum Return" with your sales force. Have them contribute their thinking on the best time during a sales presentation to introduce the subject of warranty and show the tape to a prospect.

Review both the 1976 Warranty Facts Booklet and Owner's Manual and describe their functions in answering questions and reference for greater warranty detail and recommended maintenance. Distribute copies of each to all members of your sales staff.

Introduce the Retail Buyer's Agreement form. Explain its function as verification by the purchaser that the warranty terms have been made available to him.

Demonstrate how getting a prospect to sign a Retail Buyer's Agreement form (which acknowledges that the customer understands the Warranty Provisions) after viewing the tape can lead directly to closing the deal and signing a buyer's order.

Distribute copies of the Agreement form to your staff. Since the burden of assuring customer knowledge of the warranty terms rests with the seller, you may wish to make it mandatory to have the customer-signed copy of the warranty acknowledgement form attached to each retail order form.

Set up a procedure for your car and truck salesmen to introduce your service department to your customers and prospects. Taking five minutes for this "service walk" will help reinforce the service professionalism of your dealership personnel and equipment and will add to the value of a vehicle sale. This is when you'll want your Service Manager and Advisors to sell the idea of bringing the new vehicle back home for service.

Properly using Magnuson-Moss can help bring your customers maximum return on their investment in a Ford-built product and give your dealership maximum return in sales and service volume from satisfied customers.

KEEP CUSTOMER CONFIDENCE—BUILD SERVICE SALES

In the final analysis, good or bad owner relations are often generated in the service department. How the customer is received, how his requests are handled and how well the work is done all have a direct influence on whether he will return for additional maintenance and service, or not.

Now that each new 1976 model buyer, by law, should be briefed in the terms of our warranty, it is important that the new vehicle be properly prepared for delivery. It is recommended that you thoroughly brief your service and parts personnel in the new Magnuson-Moss Warranty Act and the manner in which you expect each of them to handle the warranty presentation and all service maintenance. Follow these simple steps:

Introduce all service and parts personnel to the provisions of the new law.

Show them the video tape entitled "Maximum Return" and explain that this is viewed by each prospective buyer.

Define your dealership policy in detail as it relates to properly handling new vehicle prep and all service work throughout the period of ownership and thus build a permanent relationship with satisfied customers.

Stress the importance of customer follow-up . . . after the sale and throughout the period of ownership. Establish a procedure for following your customers for needed maintenance on a regular basis.

Two legs of the "triangle of satisfaction" mentioned in the warranty video tape are dependent on your management direction. You make the investment in talent and equipment, and your merchandising and promotion activities bring maximum return on your investment.

Make new customers' introduction to your service department a regular way of life. Take the time to meet and welcome your customers of the future. Your sincere desire to serve all their automotive needs will establish a long-lasting relationship.

Build on the Service Conveniences you offer: credit cards, toll-free line, complete parts and accessories inventory support, full-line service capabilities, service rentals and convenient hours.

Satisfied customers are your most important asset. It has been estimated that over his adult lifetime, the average customer is worth more than $50,000.00 in vehicle and service sales to the dealership. Naturally, the impact of a customer's relationship with your dealership is more directly associated with his service experiences than with his car buying experience, perhaps up to a ratio of 10 to 1. This makes it imperative that your service personnel put your best foot forward on each and every service job. Keep your customers coming back to you and your dealership will realize maximum returns in volume and profits for your efforts.

SELECTING THE VICE PRESIDENT

Mr. McGOVERN. Mr. President, at a time when there is considerable discussion about the selection of the Vice Presidential nominees for 1976, I find Mr. Clayton Fritchey's piece in this morning's Washington Post of special interest.

Mr. Fritchey correctly makes the point that while serious questions were raised about my selection of Senator EAGLETON as a running mate in 1972, there was a far more serious deficiency later revealed in the background of Vice Presidential nominee Spiro Agnew. Beyond this, Mr. Agnew was selected, not once, but twice, for the second highest office in the land.

It is also worth noting for historical purposes that few Vice Presidential nominees have ever been carefully checked as to personal background. There was nothing unusual about the manner in which either Mr. EAGLETON or Mr. Agnew was selected as a Vice Presidential nominee.

In any event, while I do not agree with all of the observations in Mr. Fritchey's column, I do think Members of the Congress and others will find this piece of interest. I ask unanimous consent that the article be printed in the RECORD.

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

CHOOSING No. 2

(By Clayton Fritchey)

Now that Jimmy Carter's nomination for President is taken for granted, everybody is telling him how to pick a Vice President or, rather, how to avoid one who might have a skeleton in his closet. What it comes down to is—"No more Eagletons."

The reference, of course, is to Sen. Thomas Eagleton (D-Mo.), who was nominated for Vice President by the Democrats in 1972, but later forced off the ticket when it became known that some years previously he had been treated briefly for nervous exhaustion after a grueling campaign for state office.

Looking back, it now would appear that the Democratic Party and the press, if not the public, reacted excessively to the revelation that Eagleton had been given "shock" therapy as part of his hospital treatment.

In fairness to the senator, we today know that he was telling the truth four years ago when he assured the electorate that his illness was of a passing nature, that he had completely recovered from it and was competent to perform his official duties. His record in the Senate since 1972 more than bears this out and, in recognition of this, the people of Missouri re-elected him in 1974 by a handsome majority.

Eagleton's outstanding performance in the Senate in the last two years is a timely reminder to us to guard against the super-

stition that nervous and psychological disorders are necessarily worse than somatic ones. Either type of illness can lead to death or to recovery. It all depends.

How many could qualify for public office if previous illness was a fatal black mark? Both Gen. Eisenhower and Lyndon Johnson were elected President by huge majorities even after barely surviving massive heart attacks and neither had any trouble carrying out his duties.

In pondering the vice presidency this year, a better watchword would be—"No more Agnews." Atty. Gen. Edward Levi has just offered the services of the FBI to check the backgrounds of prospective vice-presidential nominees of both major parties, but there is no reason to believe that an FBI quickie would have discovered that Agnew had been on the take or that Eagleton had received shock treatment. Both disclosures came about accidentally.

In any case, the whole idea of involving the FBI in presidential and vice-presidential politics is repugnant. And, from a practical standpoint, unnecessary. By the time a candidate can aspire to the presidency, the unrelenting glare of long political exposure has usually uncovered all the public needs to know about the person.

The unprincipled record of "Tricky Dick" was known to the electorate long before Nixon ran for President, so his election cannot be blamed on public ignorance. In fairness to the public, however, it should be recalled that, in winning the 1968 election, Nixon got only 43 per cent of the vote.

On the whole, our political system tests candidates pretty reliably. There have not been many big post-election surprises; few hidden skeletons have emerged in the White House. The Presidents who turned out to be second or third rate or worse were known to be of doubtful caliber well before they were elected, as, for example, in the cases of Nixon and Warren G. Harding. Nixon and Agnew are the only nationally elected officials in our history to be accused of criminal conduct and driven from office.

In my time, no nominee of either major party has ever disclosed his choice for Vice President in advance of his own nomination, and generally the choices have been acceptable because the nominee naturally wants a running-mate who will enhance the ticket or, at worst, not compromise it.

In 1956, Adlai Stevenson, following his own nomination, suddenly and dramatically, threw the contest for the vice presidency wide open, leaving the outcome entirely to the delegates. It was widely acclaimed as a fine democratic gesture, but in fact the decision eased Stevenson out of an embarrassing dilemma.

Rightly or wrongly, three or four of the vice-presidential hopefuls thought they had reason to believe Stevenson was in their corner, so he could not support one without offending the others. The open convention was a good out. The winner was the late Estes Kefauver, but Hubert Humphrey, John F. Kennedy and Albert Gore, among others, would have been quite acceptable. This year the Democratic Party is again blessed with a half-dozen or more officials, any one of whom would strengthen the ticket. So, if Gov. Carter should want to emulate Stevenson, he is in a good position to do so.

SENATOR LONG AND THE CRANSTON AMENDMENT

Mr. CRANSTON. Mr. President, unfortunately, I was unable to participate in yesterday afternoon's discussion on the Senate floor regarding Senator LONG and provisions in the pending tax bill that might affect his daughters, nephews, and nieces. And, unfortunately, I may not be present when this provision in the tax bill is actually considered, for my duties as chairman of the Democratic Credentials Committee will keep me away from the Senate most of Monday, Tuesday, and Wednesday.

So I want, at this time, to verify everything that the Senator from Louisiana said yesterday in the Chamber discussion concerning the origins of the provisions now in law which may have adversely affected the Senator's relatives. It was my amendment to the tax bill—an amendment concerning the oil depletion allowance—that was adopted by the Senate and enacted into law that is involved in all this discussion.

This amendment was worked out in discussion between Senator LONG and me. After our discussions, Senator LONG asked Larry Woodworth to draft it, and I then introduced it. Senator LONG and I specifically agreed that the amendment should be drafted very broadly, so that no one who should pay the tax would escape the tax. We recognized that the consequence might well be that some people who in all fairness should perhaps not be subject to the tax would be required to pay it. We knew, however, that we could not foresee all contingencies.

So Senator LONG did indeed play a big part in preparing and writing into law the provision of the current code that have perhaps insured members of his own family.

I have no similar first-hand knowledge of the Dole amendment, apparently designed to cure certain inequities that developed in the application of my amendment, and so, of course, I have no comment on that aspect of this matter.

JOE RAUH: THE DEPENDABLE LIBERAL

Mr. MCGOVERN. Mr. President, I ask unanimous consent that an article by Robert J. Donovan, appearing in the Los Angeles Times of Monday, June 21, relating to my friend, Joe Rauh, be printed in the RECORD.

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

UNDERSTANDING RAUH—IN ONE EASY LESSON: IF CARTER CAN'T GET A "FIX" ON THE LIBERAL LEADER, HE'S REALLY AN OUTSIDER

(By Robert J. Donovan)

WASHINGTON.—Jimmy Carter has a problem.

He can understand people around his brother Billy's filling station. He can understand the congregation in a black Baptist church. He can understand big-shot Texas businessmen and Harvard professors. But, he confessed last week, he cannot get a fix on Joseph L. Rauh, Jr.

"I don't understand Joseph Rauh," Carter told reporters on a flight from Texas to Sea Island, Ga. "He didn't understand me. There's a chasm that exists."

Incredible! Everyone understands Joe Rauh, including Lillian Hellman, a legal client of his, who says in her current book, "Scoundrel Time," "I liked Rauh. Shrewdness seldom goes with an open nature, but in his case it does and the nice unbeautiful, rugged, crinkly face gives one confidence about the mind above it."

Not understanding Joe Rauh at least proves Carter's claim to being a Washington outsider, because all the Washington insiders have for 30 years known Rauh, a founder and current vice chairman of the Americans for Democratic Action, as open, amiable, honest, forthright to a fault, and ready at the drop of a hat to expound liberal gospel. In fact, he's about the easiest person in town to understand.

When the shocking news arrived from Sea Island, it seemed imperative to rush over and have a chat with him at his Connecticut Ave. law office, and one thing the visitor learned was that Rauh, despite his wait-and-see stance, would as of now vote for Carter. At the same time, Rauh talks about Carter in terms that set forth, simply, a liberal's dilemma about Carter as the Democratic candidate.

No one in Washington speaks with higher credentials on liberalism. A graduate of Harvard and Harvard law school, law secretary to Justices Benjamin N. Cardozo and Felix Frankfurter and deputy housing expediter under President Truman, Rauh has been in the forefront of liberal fights in and out of courts and congressional hearings since the late 1940s.

He helped both President Kennedy and President Johnson with civil-rights legislation, and has been an attorney for unions and civil-rights organizations. For such work he has won all sorts of honors, including the Lasker award of the New York Civil Liberties Union.

Rauh and Carter agree that they had something of a run-in at last year's ADA national convention here. Candidates for the Democratic nomination were invited to speak at a Friday night session. Carter did not appear. However, he turned up and wanted to speak at the Saturday cocktail party, according to Rauh. Rauh objected that this was unfair to some of the other candidates, who, he said, had canceled important appointments to attend the Friday night session.

Beyond this flap, Rauh has not joined the rush to support Carter, preferring, he has said openly, to wait and see. To see what?

"Obviously, what I hope for out of any Democratic President," he said in an interview, "is liberal leadership. It is as simple as that. I have always thought that liberals in politics ought to be for ideals and idealism, and not be in politics for personal advantage."

At 65, he said, he is too old to want anything personally from a Democratic administration, merely liberal leadership.

"By that," he explained, "I mean that the country is run for the benefit of those who have the least and need help and not for the benefit of those who have the most and don't need help. All four Democratic Presidents of my lifetime—Roosevelt, Truman, Kennedy and Johnson—have been liberals.

"I am not hostile to Carter. There is no reason for me to be personally hostile."

Rauh and the ADA were supporting Morris Udall for the Democratic nomination. Now that Carter is the apparent winner, Rauh believes that, instead of joining the rush to the Georgian, the liberals have more to gain by waiting.

"Liberals in politics," he explained, "may get candidates to come in their direction more likely by withholding final judgment and thus pressuring a centrist candidate like Carter to come our way."

He conceded, however, that the Republicans leave Democratic liberals with little choice but to back Carter.

"If I had to decide at this moment," he said, "I would cast my vote for Carter primarily because he has the support of the black leadership. It seems somewhat lacking in humility to decide what is best for the have-nots in this society when they have decided on Carter."

Not an altogether enthusiastic statement. What would Carter have to do to win the wholehearted support of one of the Democratic party's outstanding liberals?

"I guess," Rauh replied, "I would put it this way:

"One doesn't expect Carter to take an ADA position on most or all issues. One can expect him to clarify the positions he has on issues so that we would know just where he stands.

"For example, he opposes the pro-abortion constitutional amendment, but in other ways tries to make the anti-abortion people feel he is on their side. He says he is for 'voluntary busing.' That is misleading, because even the most hostile opponents of integrated education do not challenge voluntary busing—they challenge court action to insure integration.

"He says he's for health insurance but refuses to support any specific means of bringing it about.

"To be honest, I am affected by the writings of Stephen Brill and Bob Schrum. (The former wrote a critical article about Carter for Harpers magazine and the latter, after working briefly for Carter as a speechwriter, quit in disagreement and wrote a memorandum explaining why.) There are two young men of high integrity.

"Both attested to Carters saying different things to different audiences and different things in public and in private. I would hope that in some way Carter could dispel the doubt that all this raises."

THE 18 MONTHS THAT MATTER

Mr. MAGNUSON. Mr. President, I ask unanimous consent that a speech delivered by Mr. Jack Steiner at the Department of Transportation's 1976 Aviation Review Conference in Washington, D.C. be printed in the RECORD. Mr. Steiner is vice president for technology and new prorgam development of Boeing Commercial Airplane Co. His May 24, 1976 speech deals with the critical period which the airline and aircraft industries are now facing. I invite the attention of all Members of Congress to Mr. Steiner's remarks.

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

THE EIGHTEEN MONTHS THAT MATTER

(By J. E. Steiner)

Ladies and Gentlemen: Eight years ago, in 1968, the United States airplane industry produced almost 700 commercial airplanes at a total annual value of over five billion in 1975 dollars. This year, 1976, the same industry will produce less than 200 airplanes for a value in the same dollars of not quite four billion. In 1968 over 60 percent of our output went to U.S. Airlines. Today about 28 percent is for the U.S. even though world passenger *traffic volume almost doubled* in those eight years.

Is this because our industry matured and new airplanes could no longer offer technical improvements? Not really. We now know how to build engines that burn 20 percent less fuel per pound of thrust than any delivered in 1968—and fuel price (in constant dollars) has tripled or quadrupled in the time period involved. We now know how to build wings almost 10 percent more efficient than those we built in 1968. We now have digital electronics that, in some ways, constitute as great a technological advancement as the introduction of the transister—and much more efficient structures—and lower community noise than dreamed possible in 1968. In short, we have the largest technological improvement package available since the introduction of the jet airplane almost 20 years ago—but it is largely unused.—In fact, only a relatively few of our 2150 U.S. airline jet transports use any of it at all—and none use even half of the total package.

With a 1968 industry direct employment of over a quarter of a million workers and a balance of trade contribution of almost $6 billion in 1975—second only to agriculture,—one might have thought that the industry was deserving of a little thoughtful planning. Let's consider a typical measure of average airline health, i.e., the percent of the operating fleet which an airline can replace in any given year with its cash flow (net profit plus depreciation plus deferred tax). Using a percentage number has two benefits: it accounts for the growth which has occurred during the year, and it accounts for increases in the price of replacement equipment.

If aircraft remained viable for 20 years before replacement, which, unfortunately, they don't, an airline would obviously need to have an annual cash generation sufficient to replace 5 percent or 1/20th of its fleet. Since growth, over a rather substantial period of years, will be roughly equal to replacement, about another 5 percent is required for growth. As any airline knows, airplane acquisition is really not the only reason for generating cash. A few more percent is required to replace other capital assets and provide adequate cash return to investors.

Yet cash generation in percent of fleet replacement for the total U.S. trunk system went from over 13 percent in 1967 to 6 percent in 1970 to less than 4 percent in 1975, and no one here in Washington even mentioned it. A great system was dying. A system that had propelled the U.S. manufacturers to build better equipment than any other manufacturers on earth. Yet, instead of sounding the alarm—the occurrence of a desperate phenomenon—(dying of the market, drying up of jobs, diminishing of future balance of trade, lack of funds for technological development—sickness of the whole civilian manufacturing system)—many in Washington ignored the plight of the airlines and pressed for lower fares for their constituents, and loaded on a host of environmental requirements. They ignored airline employment layoffs and red ink income statements. They ignored the manufacturer's declining sales. They chose to ignore all these threats to our free enterprise system.

What many may not have realized was that they were in effect causing less noise reduction to result and greater fuel to be used by impeding the one requisite of technological progress—financial capability of the U.S. trunk carriers. The airlines simply could not afford to buy quieter and more fuel efficient equipment to replace their aging fleets.

Let's make sure we understand the basic fundamentals: (a) substantial annual investment in technological development; (b) a financially sound group of airlines that can keep their aircraft fleets up to the state-of-the-art and can retire airplanes at the end of book life (about 14 years) to permit a whole new generation of technology to enter the system. In between (a) and (b) are jobs, balance of trade, and American leadership of the world commercial airplane industry. We got where we are due to the large amount of technology piled up by U.S. military development of the long-range bomber in the 1950's. U.S. manufacturers have built over 90 percent of all the commercial airplanes in the free world. In addition, the crossover in travel between intercity rail and intercity air traffic which occurred in 1956 resulted ten years later (1966), in six times as much air travel as rail and an acceleration of our growth in Gross National Product.

Now, almost 600,000 passengers a day are carried by our U.S. domestic airline system. Ten years from now it will be one million a day. It is estimated that such intercity flying is now participated in by over half of the total U.S. population—and air transportation has become a dominant world factor, said, in fact, to be the second greatest single contributor to rate of economic growth, exceeded only by education. It has been estimated that, in this Bicentennial year, some 18 million people from other nations will visit the United States. Of this, almost seven and one-half million will arrive by air. Air transport has long ago ceased to be a luxury, and remarks limiting it to any "jet set" are out of touch with reality. Air transportation is the basic mode of intercity transportation now and in the future. It is one of the pillars upon which our economic system is supported.

And yet, in our infinite wisdom, we virtually ceased large-scale government sponsored technological development applicable to civil aircraft in about 1955 and didn't start it up again until about 1970. Our government paid Harvard Business School in the early 50's to study and tell us that all successful engine programs were started before the airplane on which the engine would be used was defined—because the development time of engines is, by its nature, longer than the development time of airframes. Yet the same government that paid for the study forgot its message for 15 years—1955 to 1970 and allowed the major burden of long term technological development to shift to private industry. Private industry is capable of tackling very large programs but is not capable of funding the very long term development building blocks that, in this industry, produces them.

That 15 years, lapse essentially erased our world technological lead. Now at long last, we are struggling to re-create it. It is very questionable whether this can be done, but we must try. I fully support the increasingly aggressive attitude of NASA. I trust this attitude will be supported by adequate federal research funds—on a scale that even the proponents do not appear to understand, if world supremacy is to be re-instated.

I was interested in a recent Senate hearing in which I participated. One of the Senators alluded to our U.S. leadership and control. My response was: Sir, with only 20% of the orders coming from the U.S., we are not controlling anything. With appropriate hindsight, the opportunity we have presented to our foreign competitors seems, indeed, to have been incredible.

Every large U.S. commercial airframe, and engine company is engaged in collaboration arrangements or discussions with non U.S. nations. Such engagement does not diminish American jobs, it creates them. Without cooperation, these international markets can be closed to us.

The situation is now becoming fairly well understood. Financially sound airplanes originate financially sound new airplane programs which introduce new technology aircraft into the air transportation system which result in greater productivity, lower operating cost, less fuel burned and lower community noise. This isn't done with rules, its done with rules—plus money.

The year 1976 looks like one of modest airline profit—but one year cannot remedy the effects of seven or eight years of unsatisfactory earnings. It will take a lot more. Profits is not a dirty word. It is the only thing that makes our system run. There hasn't been a new U.S. commercial aircraft program started for over eight years—the longest dry spell in the history of commercial aviation.

At any given time, and for any given route pattern, an airline requires a distribution of different sized aircraft. If they have too many small ones, airport congestion and gate constraints occur. If they have too many large ones, frequency is constrained and passenger load factors are unprofitably low. If one divided the U.S. domestic trunk jet trasnport aircraft sizes into four classifications: "small," "medium," "large," and "very large," then an optimum U.S. domestic trunk jet transport distribution would, in general,

have a relatively high percentage of "medium" size aircraft. The number of seats associated with each size classification increases very gradually with time—at a rate well below overall revenue passenger mile growth with time. The size, complexity, and inertia of the system eliminates all but very gradual changes in the number of seats associated with size classification.

Another way of saying this is that the figure of merit is cost per revenue passenger mile (RPM), not cost per available seat mile (ASM).

The first item on our current high technology is, of course, the high bypass ratio engine. This offers a fuel consumption benefit of about 20 percent and, in addition, has a favorable effect on community noise. The latter is due to the sound quality of noise generated by the high bypass ratio engine. Suppression of its higher frequency noise tends to be more feasible than the lower frequency of older engines.

High bypass ratio engines are available in the United States only in the "large" and "very large" size aircraft. These are the DC-10, the L-1011, and the 747, and they number about 300 out of the total 2,150 U.S. jet transports.

The only medium size (actually somewhat large size for "medium") commercial airplane in the world employing a high bypass ratio engine is the French/German A300B which has been slow in selling. However, 56 aircraft have been sold or optioned to eight airlines on three continents. As yet, none have been purchased by U.S. operators. The only high bypass ratio "small" aircraft seriously discussed is the French Super Mercure, powered by the U.S./French CFM-56 engine. However, the economic viability of this aircraft remains a question.

A substantial deferred-buying bow wave of unfilled modernization requirements in the medium and small size airplanes has built up. Over-capacity has been eroded by time. We predict that a $46 billion (1975 constant dollars) world market, now through 1985 exists—almost half for replacement and half for growth. We predict that 52 percent of the requirement will be by U.S. airlines, 24 percent by European (including 5 percent by Britain, 3.5 percent by France, 3 percent by Germany), 4 percent by Japan, 4 percent by Canada and so on. We predict that two-thirds of this market will be for deliveries between 1980 and 1985. We see a technology package of high bypass engine, a more modern wing (worth about half as much in efficiency as the engine), new integrated digital electronics, and improved structures—a larger technological package than existed between the 707 and 747, except for the size effect of the latter. We see this market fueled by (a) the deferred buying syndrome and the aging fleet, (b) the gradual elimination of over-capacity, (c) the noise requirement to quiet or, preferrably, replace the 707 and DC8, and (d) the resumption of U.S. and world economic growth.

All these forces seem to be building together to form a critical period, and for purposes of this discussion I've called it "The 18 Months That Matter". It starts about now. On its outcome will rest the fortune, the jobs, the balance of trade, the large contributions of a healthy airline system to economic growth, the increased technological and catalytic spinoff of commercial aerospace—and the future of U.S. commercial aviation for the next two decades.

Let's name a few ingredients of the next 18 months:

(1) Maintenance of reasonable airline profits through appropriate tariff structure and a reasonable cooperation of labor, which sometimes seems to fail to realize the potential perils in job security and eventual living standards.

(2) Creation of an environment whereby new programs can be started in a timely manner. From three and one-half to four years are needed to bring off a new program. If we want low noise and better fuel efficiency in 1981 to 1985, then we must face almost immediate reconstruction of confidence of the financial community in airline creditworthiness. In addition, if there is to be a noise reduction escrow fund, let's have it soon.

(3) Construction of new design noise standards so manufacturers can be assured that their aiming point isn't going to change.

(4) Construction of CFM56 and JT10D "ten ton" engine programs with *no* time delay and with extra emphasis on cost of ownership which has been so disappointing on all first generation high bypass ratio engines.

(5) Creation of at least one (and possibly two) new, U.S.-led designs incorporating all elements of the latest technology package in the two-aisle, LD3 capable size area of 180 to 200 U.S. two-class passengers and powered by either three "ten ton" engines or two of the existing "20 ton" engines.

(6) Development of at least one U.S.-led program using high technology and having viable economics, in the European all-tourist, 160 to 170 passenger capacity.

(7) Stabilization of planning for future airway air traffic control with a program that employs available digital electronic capacity to more efficiently utilize air space, save fuel through "strategic control", "time slotted arrival" or equivalent in a system whose *orderly* efficiencies can eventually led to complete nation-wide and eventual world-wide precise control of all air vehicles (lets aim high enough).

(8) Embark on an *adequate* federally funded program of long lead time research which will lead to another "package" worthy of spawning a whole new set of airplanes of all sizes about 1995 (or earlier if we can) and including powered laminar flow control, composite primary structures, wake vortex control, and enough noise reduction to eliminate noise as a community program.

(9) Metallurgy and engine technology to significantly further reduce fossil fuel consumption, but more importantly to cut cost of ownership by a very large percentage and virtually eliminate in-flight shutdowns and other interruptions of reliability.

(10) Start on a superior SST development which will produce yet another generation of long range airplanes in the next century.

Ladies and Gentlemen: All except item (10) should be plainly visible 18 months from today. Our economy has begun a recovery of reasonable term. We have finally grasped the fact that a healthy commercial aerospace industry with hundreds of thousands of jobs and billions of dollars toward balance of trade can only come from a financially viable airline system. Our congressional committees are finally realizing the technological difficulty created by 15 years of inattention. (NASA re-started its research oriented to civil transport about five years ago). Some Europeans feel our inactivity gives them a chance at world domination, but most realize that reasonable collaboration is a more satisfactory solution (the market is about 60 percent in North America).

What will the next 18 months show us? Will we see this long delayed recognition of the importance of U.S. airline financial health and credit-worthiness backed up with real and workable programs to permit fleet modernization? Are we going to see tangible action toward the objectives of more efficient fuel use and meaningful reduction in community noise? Will long term commitments be made to fund aeronautical and related R&D work to permit America to regain world leadership in this vital technical and economic sector? . . . I think conditions are right for positive developments. I think many in government, both in the legislative and executive branches, understand the situation and are beginning to take actions which will aid in turning the situation around. I think industry, both airlines and manufacturers, is ready to respond. And most importantly I think, the fundamental underlying economic situation is improving at a rate that will support the many actions that are necessary to recover our position of world leadership in commercial aviation.

And so ends my discussion of "The 18 Months That Matter." We will live in their shadow for two decades to come.

GENOCIDE CONVENTION DOES NOT THREATEN CONGRESSIONAL OR STATES' RIGHTS

Mr. PROXMIRE. Mr. President, as we consider the Genocide Convention, I want to address myself to those who have advanced the opinion that U.S. ratification of the Genocide Convention would result in the surrender of certain congressional and States' rights. Some critics have expressed the fear that this treaty usurps the expressed power of the Congress to define and punish offenses against the law of nations. Solicitor General Philip Perlman addressed this issue in testimony before a subcommittee of the Senate Foreign Relations Committee in 1950 when he stated that—

> This treaty will not bypass Congress or in itself legislate Federal Criminal Law.

Indeed, the treaty itself states that it is the duty of the domestic legislatures of the signatories involved to undertake action to state what offenses are punishable, to prescribe penalties and to try the guilty persons, thus implementing the provisions of the treaty.

The States, like the Congress, will not suffer any loss of their constitutional rights if the United States ratifies this Convention. It is argued that if the Senate approves a convention which will become a part of our domestic law, then, having to surrender their jurisdiction in Congress. However, Congress has already been invested with the power to prescribe penalties for offenses against the law of nations. This is made clear by our Constitution. It is impossible to deprive the States of jurisdiction which was never theirs in the first place.

In the words of Prof. Richard Gardner:

> Our ratification of this Convention will dissipate the embarrassing contradiction between our failure to act and our traditional leadership in support of basic human rights.

Mr. President, I urge the Senate of the United States to delay no longer in ratifying this important document.

THE IMPACT OF THE DEFENSE ON THE REGIONS

Mr. McGOVERN. Mr. President, a piece by Mr. Neil R. Peirce in today's Boston Globe contains some interesting information about the impact of Federal spending on various sections of the Nation.

The central thesis of the article is that our enormous military budget now has the effect of transferring Federal revenues paid by all of the American people into the South and West. It is in the so-called Sun Belt areas of the Nation where the taxpayers' defense dollar is

having its most striking impact in the form of jobs and contracts.

I ask unanimous consent that Mr. Peirce's article be printed in the RECORD.

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

NORTHEAST LOSES HOLD ON WEALTH

(By Neil R. Peirce)

WASHINGTON.—The spending and tax policies of the Federal government are causing a massive $30 billion annual drain on the economies of the nation's Northeast and Midwest.

Some of the money is siphoned off by the Federal bureaucracy in Washington, D.C. But most of it is flowing south and west, to the fast-growing states of the south-southwestern "sunbelt," as well as to the Rocky Mountain and Pacific coastal states.

These findings are based on an exclusive National Journal study of how much the Federal government raised in taxes and how much it returned through various spending programs, in each region and state of the nation in fiscal year 1975.

The survey shows that Federal policies are underscoring and furthering the increasingly rapid movement of wealth in the nation—a shift benefiting most states with booming economies, but threatening to undermine the economic base of the country's older, industrialized Northeast quadrant.

When the Northeast dominated the national economy, it made much sense in national policy terms to pump Federal tax dollars into the South and West—to alleviate rural poverty, to build highways across open spaces, to construct dams, to build military and space facilities where there's plenteous land and favorable climate.

The question now is whether the spending flow ought to be reversed, or at least equalized, because so many Northeast quadrant states are on the economic ropes, hard put to finance essential local government services.

The Great Lakes states alone, according to the National Journal figures, have a negative balance of payments to Washington of $18.6 billion—$62.2 billion paid in Federal taxes in 1975, with only $43.6 billion returned in total Federal outlays.

The mid-Atlantic states of New York, New Jersey and Pennsylvania are in almost as bad a position, losing $10 billion through their exchange with the national government. The Great Plains states lose $1.5 billion, New England $762 million.

The contrast with the favorable position of the South and West could scarcely be more startling. The southern states receive back $11.5 billion more from Washington than they pay in taxes. California and the other Pacific states emerge with a net favorable balance of $7 billion. The Mountain states are $3.6 billion ahead.

A measure of "dollar returned for dollar paid" works out just as dramatically. For each $1 residents and businesses of the five Great Lakes states pay in Federal taxes, they receive back a meager 70 cents in Federal outlays. For the mid-Atlantic the return is 83 cents, for New England 96 cents (Massachusetts, 95 cents), for the Great Plains states 94 cents.

Yet for the southern states, the average return from Washington is $1.14 for each tax dollar paid. For the Pacific states the figure is $1.17, for the Mountain states $1.30.

What accounts for the immense differentials in regional and state balances of payments? The Federal tax burden is part of the answer: It's significantly higher in the Northeast quadrant and in the Pacific states than elsewhere.

But the really big difference is in defense spending—for military bases, personnel and defense contracts. The government expends $623 per capita on defense in the West, more than triple the $207 rate in the Midwest. The South gets $412 per person, the Northeast only $309 in defense dollars.

Only for a few programs—welfare in particular—are per capita Federal payments higher in the Northeast than elsewhere. But the dollar advantage is slight and welfare payments do little to stimulate the long-term growth of a local economy. The big benefit comes in jobs and that's where the South and West profit so handsomely from Federal spending. In the Northeast and Midwest, federally-funded jobs, including account for 5.7 percent of all wages and salaries. But in the South and West, the comparable figure is 15.6 percent.

Those federally-created jobs stimulate demand for major new capital items in the South and West, including new homes. Add that to the disproportionate share of Federal money going south and west for public works—highways, sewer construction and the like—and one sees some justification for the older states' complaints that they are being forced to finance the development of their brash sunbelt competitors.

So far only New England, through a strong congressional caucus and research office—the only multi-state operation of its kind in Washington—has begun to "get its act together" in pressing for new energy policies and Federal grant formula revisions that benefit the region.

ALCOHOLISM

Mr. MOSS. Mr. President, as we all know, alcohol abuse is a serious social problem in our Nation today. It takes its toll in human misery, in broken homes, and in shattered careers. By conservative estimate there are perhaps 10 million alcoholics in our society and the number is increasing. The cost to business and industry alone, in terms of lost productivity, runs to billions of dollars.

Many groups, public and private, are striving valiantly to reduce the incidence of alcoholism, both for humane and economic reasons. One such group is the U.S. Jaycees whose 325,000 members in 7,000 chapters launched Operation Threshold several years ago. This is a commendable grassroots effort to create greater public awareness and understanding about responsible drinking, irresponsible drinking, and the illness of alcoholism.

The Arlington News in nearby Arlington, Va., recently published an interesting account of what the Jaycees are trying to accomplish. It is contained in a weekly column on alcoholism prepared by React, Inc., an Arlington organization which specializes in educating, training, and counseling people in all walks of life concerning problem drinking, alcoholism, and alcohol-related problems.

I ask unanimous consent that the article entitled "Alcoholism: The Sparkle and the Promise?" be printed in the RECORD.

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

ALCOHOLISM: THE SPARKLE AND THE PROMISE?

(By Thom and Pat)

No campaign against alcohol abuse in this country will succeed until the public—drinking and non-drinking public alike—is willing to reject all the hokum surrounding alcoholism.

And that means opening the window of ignorance so that the fresh air of knowledge can come in. Public education is the key.

No one is doing a better job in this respect than the 325,000 members of the United States Jaycees represented by 7,000 chapters across the country.

About four years ago the Jaycees launched Operation Threshold, the first nationwide grassroots community action program on the prevention of alcohol problems. It is designed to create awareness and understanding about responsible drinking, irresponsible drinking, and the illness (disease) of alcoholism.

This is not do-goodism and it is certainly not a temperance movement. Here is its total purpose in simple English:

"Threshold never encourages or discourages drinking, but rather proposes responsible drinking for those who choose to drink. It is a personal, private decision each person should make for himself."

The Jaycees will work with anybody and any organization it feels has the same goals—the prevention of alcohol problems. Operation Threshold is thoroughly grassroots so that any community—regardless of size—can participate. It works closely with the National Institute of Alcohol Abuse and Alcoholism which means it has the most reliable and up-to-date information available on the subject.

Without hesitation, the Jaycees have accepted the fact that alcoholism is a disease or illness, as have the American Medical Association, the American Bar Association, the American Hospital Association, and many other responsible groups.

"Despite this endorsement, however, we continue to view alcoholics and alcoholism in a negative and punitive light," the Jaycees say. "It is time that we take a new look at the entire area of alcohol usage and alcoholism and find a common ground for dealing with it as it relates to us personally and to our community."

They take the position that an alcoholic person should be treated no worse than an individual who has a heart attack, cancer, or diabetes, because he or she is sick with an illness that deserves comprehensive and responsive care just like any other.

"In order to make any headway, we feel that we must begin to openly discuss problem drinking as a social and health problem and assist in the prevention of alcohol abuse," the Jaycees point out.

"One way of quickly realizing the severity of alcohol abuse and alcoholism in the nation is just to pause for a moment . . . think of a relative, family member, or associate at work who has a serious alcohol problem . . . not difficult, is it? With 10 million alcoholic Americans, it shouldn't be."

Operation Threshold explodes many myths about problem drinking and pricks the conscience of many people who don't think they have a drinking problem. The social drinker, for example.

Some social drinkers, they explain, never take a drink except on special occasions while some drink regularly, but moderately, and others can't make it through a day without quite a few "social" drinks.

"For the true social drinker, alcohol is just one part of a social experience," say the Jaycees. "Drinking is not the reason for getting together. It is one of the things that many add to the pleasure of the occasion in the company of good friends, conversation and food."

One reason we have so many drinking problems in the United States today is that we haven't been able to agree on what is acceptable, responsible, and normal drinking. As a result, much of the problem drinking and alcohol abuse which exists in our society is disguised as social drinking.

That great institution—the cocktail party—comes in for some criticism. In the name of social intercourse that's where many of the abuses of alcohol take place. The host

or hostesses—or bartender—pour like it's going out of style. And, of course, some of the guests drink in the same fashion—like it's going out of style.

"The disturbing truth is that many Americans have not learned how to use alcohol, and have not acquired the art of social drinking," say the Jaycees. "This statement is endorsed in part by the fact that we still tolerate drunkenness. If someone gets drunk, we accept his behavior. We laugh, or humor him, often excusing his actions."

We call people who pass out or sell cocaine and heroin "pushers." This will come as a shock to many well meaning people, but isn't the host or hostess who overpours or insists you have one more at a cocktail party no less a "pusher?" Since alcohol is a drug, and alcoholism our number one drug problem, we have highly respectable pushers working virtually every neighborhood in this country.

Here are some excellent do's and don'ts Operation Threshold has compiled for party-givers:

Don't serve doubles. Most people count and keep track of what they drink. Serving doubles is not generous. It is rude and dangerous.

Offer soft drinks. One-third of adults choose not to drink alcohol. So offer a choice. And when someone says, "No, thanks" . . . don't push it.

Don't rush refills. Never hurry someone to take another drink. In fact, you'll find it's a good idea to slow down the flow of alcohol for some guests.

Give more than a drink. You're not a bartender. You're a friend. People don't come to your home just for a drink. Introduce people to one another. Get a conversation started. Give someone a compliment. Or a laugh.

Keep them eating. Not just later on, but right from the start, while your guests are drinking. That's important, because eating slows down the rate which alcohol is absorbed into the system.

"Dinner is served." If you're going to serve dinner or a snack, don't wait too long. If the cocktail hour goes on for hours, nobody will recall what you had for dinner.

If someone gets drunk at your home, you are responsible to see that no harm comes to him. That's what it means to be a responsible host. See that he gets home safely; but don't let him drive. If necessary, let the guest stay overnight and sleep it off.

There are a few more thoughts from Operation Threshold:

"Drinking is done responsibly when its total effect is to add to the well-being of a person and to enhance his relations with others."

"Responsibility in the use of alcoholic beverages requires thought and self-discipline.

"If a person cannot make alcohol his servant, he should not allow it to become his master, in either a limited or total way."

This column is prepared and presented under the auspicies of Mr. Thomas H. Brown, III, and Mrs. Pat DeVore, R.N., in consultation with Dr. Charles Smith, M.D. Each has a wide range of experience and exposure to all facets of problem drinking, encompassing treatment, counseling, education and rehabilitation of people suffering from alcoholism. Individual counseling may be arranged with Mr. Brown or Mrs. DeVore.

If you have any questions about alcohol abuse which you would like to have answered in this column, you should direct your inquiries to React, Inc., 1008 N. Randolph Street, Arlington, Virginia, 22203. All identities will be kept strictly confidential.

CONFERENCE ON THE EXTENSION OF FEA

Mr. MUSKIE. Mr. President, Senate and House conferees are currently meeting to discuss legislation to extend the life of the Federal Energy Administration. There are several aspects of the Senate-passed extension bill that I would like to comment upon.

First of all, I urge the conferees to accept the conservation provisions in the Senate bill. I am hopeful that my colleagues will realize the importance of effective steps this year to encourage energy conservation at all levels of the economy. These provisions, which encourage conservation in existing homes and businesses and new buildings, represent one of the keys to meeting an energy problem over the long term.

It is past time to begin these efforts. I urge the members of the conference to act quickly and favorably on these proposals.

There are other portions of the Senate bill, however, which I did not support and which I urge my colleagues to drop from the conference-reported bill.

Specifically, I object to the exemptions from the crude oil price ceiling for domestic oil produced by stripper wells and by secondary and tertiary methods. These provisions go against our efforts to keep the economic recovery going and they are simply not an effective tool to increase production and encourage conservation.

The Congress worked hard throughout last winter perfecting a pricing system for domestic oil that made sense for the country. The removal of these unnecessary pricing provisions from the conference report will make sense of the FEA extension bill.

Previously, I questioned the need to extend the life of FEA at all. But I am satisfied that the bill before us establishes a procedure to phase out the agency over a specified time period. It thus represents a major step toward estabilshment of a Cabinet-level agency to deal with our energy needs over the long term; our next step in Congress is to establish that new agency.

REGIONALISM, FEDERALISM AND PAROCHIALISM

Mr. MAGNUSON. Mr. President, the Senator from Maryland (Mr. MATHIAS) recently addressed the annual conference of the National Association of Regional Councils in Hollywood, Fla. Senator MATHIAS' remarks on "Regionalism, Federalism, and Parochialism" outline a very thoughtful perspective on many important issues that confront our Nation. In this speech, Senator MATHIAS makes a number of significant comments on the current state of intergovernmental relations in the Nation, the evolution of regional councils, and the outlook for regional cooperation in the years ahead.

I believe that our colleagues will find these remarks of great interest and ask unanimous consent that the text of Senator MATHIAS' speech be printed in the RECORD.

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

REGIONALISM, FEDERALISM AND PAROCHIALISM

(By Senator CHARLES McC. MATHIAS, JR.)

There are going to be a lot of important meetings in 1976, including the national political conventions. But it is no exaggeration to say that this meeting may have a greater impact than any other—including the political conventions. And that is why I am delighted to be here at the opening session of the Annual Conference of the National Association of Regional Councils, or NARC as you have come to be known.

It is a rare pleasure to be invited to address a group of people who are in the vanguard of their times. The impressive growth of regional organizations over the past ten years; the fact that there are now more than 600 regional councils in operation representing almost 30 percent of the nation's population, attests to the truth of Victor Hugo's famous Observation: "There is one thing stronger than all the armies in the world and that is an idea whose time has come".

Clearly, the idea of regionalism has arrived, and not a moment too soon. There are now more than 16,000 general purpose local governments in the nation. They overlap with about 25,000 special districts and 3,100 counties. The average SMSA (Standard Metropolitan Statistical Area) has about 90 separate units of government, while the larger metropolitan areas may have several thousand.

Your presence here today, representing the American people in metropolitan areas, in small towns and in rural areas, testifies to the extent that jurisdictional fragmentation inhibits solving the numerous problems which confront our citizens, problems which are not confined by the boundaries that create this metropolitan mosaic. It also shows that regionalism is recognized as an effective way for rural areas to counter the growing pressures which threaten to erode traditional values and long-established patterns of living.

Almost 40 years have passed since Lewis Mumford identified regions as the bedrock of civilization. He saw the region as a natural organism combining the most important elements of human culture and he saw the nation, the state and even the city as artificial units described by arbitrary boundaries.

Mumford defined the regionalist as someone who tries to find out "how the population and civil facilities can be distributed so as to promote and stimulate a vivid and creative life throughout any geographic area that possesses a certain unity of climate, soil, vegetation, industry and culture".

The regionalists' objective, as Mumford foresaw it, is a noble one. But noble objectives are not necessarily the easiest to accomplish. There are often unforseen obstacles in the path of the most laudable goals.

For example, all of you who sit on regional councils are there by virtue of some other job you hold. As elected officials, your primary responsibility is to a local constituency that may not give a hoot about jurisdictional fragmentation. They want their local interests protected and they want you to do it. On election day a regional spokesman may find himself out in the cold, if he has let his enthusiasm for regional issues overshadow local concerns. This is a problem I am familiar with myself.

The need for regional approaches during the past ten years has transformed regional councils, which once were merely informal meetings between local officials, into major policy planning organizations. But, participation still is voluntary and the council, if it is to stay in business, has to keep everyone reasonably happy.

This too is an obstacle to regional accomplishment for, as long as local government can withdraw, or even just threaten to withdraw, the scope and nature of the issues a council of governments (COG) can reasonably attempt to address will be severely limited. When your energy is largely devoted to maintaining a consensus, so that no one will pick up their marbles and go home, there isn't much left over for finding cooperative solutions to the really difficult problems.

A regional consensus on the need for clean air and water or a transportation system that makes sense is not too hard to achieve. But, what happens when the controversial questions come up like: Dispersing low income housing, or sharing the burden of welfare, or disposing of solid waste, or busing across jurisdictional lines? I'll bet a lot of your COG members reach for their marbles and look for the exits. Unfortunately, there are still people who believe that no problem is so big that it can't be avoided.

The fact that each of you must walk a tightrope between local pressures pushing parochial concerns and your own conviction that regional approaches are necessary to solve our most critical problems exposes a fundamental dilemma in contemporary government.

In the past 200 years we have grown from a loose rural alliance of thirteen states to a vast nation of metropolitan areas. The ability of our basic governmental institutions to adapt themselves to serve the needs of people living in these new circumstances deserves serious examination.

Our Constitution created a government system and institutions designed to address the problems of those thirteen original states which, happily, has proved to be remarkably flexible. It has served us well but as Thomas Jefferson observed:

"Laws and institutions must be hand in hand with progress of the human mind . . . as manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times."

In 1787 the states that were the primary component of the new experiment with a democratic federal system of government, were appropriate units for addressing the problems of the day. But, over the next two centuries, the rivers that had initially provided such convenient state boundaries also attracted urban centers. As these urban areas grew across state lines, so did the problems of the metropolis, without any reference to what the Founding Fathers had in mind when they wrote the Constitution.

Today, close to a quarter of America's population lives in 38 interstate metropolitan areas. In this election year, questions of intergovernmental relations may not be uppermost in the minds of these 55 million people, but, whether they know it or not, their lives are affected daily by the inadequacy of intra-jurisdictional mechanisms to handle regional problems.

In February and March of this year, I chaired a series of hearings before the Senate District Committee where the metropolitan dimension of the problems facing the Nation's Capital were examined. The problems which surfaced at these hearings are not, however, unique to the national capital area. They characterize interstate metropolitan areas generally.

These hearings revealed some pretty discouraging facts. For instance:

In the Washington area the overlap of programs administered by different Federal agencies made it possible for the District of Columbia—an area only 10 miles square—to start developing its own Emergency Medical Services (EMS) system completely independent of regional efforts that were already underway at the council of governments. As a result, it took several years of negotiation before a cooperative program could be agreed upon and started.

Because of its interstate charter the national capital region has four agencies designated by the Department of Health, Education, and Welfare (HEW) to conduct health planning. The result: An estimated cost in unnecessary hospital construction that will total close to $120 million by 1980.

I could give you many more examples from the hearings of confusion and waste resulting from problems, that are essentially interstate in character, being handled at a local level. Each of you, no doubt, could match me example for example from your own experiences.

But instead of dwelling on the negative aspect of the situation, I would like to take a look at what might be done to give regionalism the push it so clearly needs. I can think of no more appropriate 200th birthday present for America than to take Jefferson's advice to advance institutions "to keep pace with the times." The growth of interstate metropolitan areas is exactly the kind of change in circumstances that Jefferson anticipated would require adaptation of our institutions.

For my part, I intend to make a systematic review of Federal programs to see how they can be revised in order to stimulate problem-handling and problem-solving on a regional basis.

I know from previous experience that this won't be easy. Several years ago I decided that provision should be made for LEAA (Law Enforcement Assistance Administration) funding on an area-wide basis. Because criminals show no respect for state and local boundaries, I felt that a "beltway" crime conference could help address the metropolitan crime problem. But, from the reaction at the Justice Department to this proposal, you would have thought that I was trying to abolish the Constitution. Fortunately, I managed to overcome on this one.

I intend to overcome resistance to the regional concept in other areas as well. Generally, I prefer initiatives to come from below, from the grassroots level. But this is one area where the political facts of life and experience dictate that action come from above.

When a city and its suburbs lie in different States, their diverging priorities obviously will stand in the way of regional programs. How many people who have fled a city for the relative security of the suburbs would willingly help pay the costs of supporting that city? Or how many members of a State legislature, who represent rural areas, will vote in favor of the State tax money going to help a city located in another State? Not very many, I think.

It is for these reasons that I believe Congress must take the lead in encouraging new efforts at regional cooperation and in sustaining regional programs that are already underway. Federal incentives have promoted the nationwide growth of activities on a regional scale. Making a regional planning process a precondition in getting certain types of Federal grants has certainly encouraged local governments to join regional councils. These Federal requirements also have resulted in useful interstate metropolitan approaches in transportation, in water treatment, in sewage disposal and in housing and community development.

But, in spite of the progress that has been made, 55 million people in interstate metropolitan areas are still excluded from the benefit of many Federal programs. I think we now have to find a way to modify these programs so that State lines do not prevent large segments of the American people from participating in them.

The Federal programs I intend to review and to modify in an effort to encourage regionalism, are in the areas of: manpower, health care, social services, community action, law enforcement and economic development. Specifically, I intend to see what can be done with the health planning and resources development act to encourage local officials to establish health planning areas that will coincide with identifiable regions. It seems to me, elected officials would be more comfortable addressing health care needs on a regional basis if they are provided with a clear Federal mandate to emphasize regional solutions.

I intend to see that the comprehensive employment and training act is revised to recognize the special character of interstate areas and to empower areawide agencies to sponsor employment programs in cooperation with local governments.

I intend to find a way to earmark some of the general revenue sharing funds for the use of regional councils. I support an extension of the general revenue sharing legislation, but want to be certain that the 39,000 local government units that now receive these funds are the most appropriate recipients.

I intend to work for the establishment of a permanent legislative monitoring arm within the advisory commission on intergovernment relations (ACIR). I think the ACIR should review and evaluate the regional implications of proposed legislation and advise Congress on how new programs will operate on a regional basis, especially in interstate metropolitan areas.

I have already urged the select committee which is studying the Senate committee system to examine the question of how we might better organize ourselves to address the problems of interstate metropolitan areas. One recommendation that should certainly be considered is one NARC made at my district committee hearings: To establish a temporary joint committee on interstate metropolitan areas to formulate a coherent national policy on interstate metropolitan areas and to propose modifications in existing legislation to make it consonant with such a national policy. We simply cannot expect disjointed efforts by State and local governments, or even by separate committees of the Congress, to provide the kind of national approach the times demand.

I find it discouraging that the administration has sought to reduce funding for section 701 of the Housing Act which, as you well know, is the financial underpinning for comprehensive planning and many other important regional council activities. I will do my utmost to see that these funds are restored. I'm all for economy but it is penny wise and pound foolish to eliminate constructive planning programs to save a few million dollars when these very programs eventually would result in substantial savings by showing us how to use our limited resources in the most efficient way.

On the brighter side: Congress is considering legislation that will revise Federal planning requirements that have contributed to fragmentation in metropolitan areas. The Intergovernmental Coordination Act of 1976 was inspired by NARC President Wes Uhlman's concern about the fragmentation being caused by the 15 different regional planning bodies in the Puget Sound area. It is designed to unify the regional planning requirements of many different Federal programs and to provide funds to support the A-95 grant review process. I think this act will provide just the kind of stimulus for regional councils we so urgently need.

I've been talking for quite a while now about what I think should be done at the Federal level to encourage regionalism and about what I intend to do. Even more important perhaps are the tasks that face you.

As local officials and as members of regional organizations, each of you faces two basic challenges in the years ahead. First, you must work tirelessly at the grass roots to create a regional conciousness. You wouldn't be here today if you weren't already converted to regionalism. Now you must work to generate among the general public a sense that they are citizens of a region or a metropolitan community, that their horizons are broader and their possibilities grander than those contained within the confines of a city or even a State. You must be missionaries of regionalism and work with the zeal of missionaries if the concept is to be spread and accepted.

Second, regionalism needs a boost at the polls and boosters among the presidential

candidates. There has been a lot of attention focused on the presidential primaries where there may be only 30 percent of the people noting and victory is proclaimed when a candidate gets 51 percent of the ballots. This association represents regional organizations whose decisions affect the lives of 80 percent of the voters in America. You have a tremendous political potential. In addition to your effort to get commitments to regionalism inscribed in the party platforms, I urge you individually and collectively to confront candidates for public office and to ask them for specifics on what they plan to do about air pollution, transportation, crime and unemployment in our major metropolitan areas. So far, there has been a disturbing silence from both sides of the aisle on these important issues.

If their plans do not include recognition of the role for regional organizations, I suggest that you and your constituents make your pleasure known on November 2.

DISC: U.S. TRADE POLICY, NOT TAX REFORM

Mr. RIBICOFF. Mr. President, I have become increasingly concerned in recent weeks over the growing debate on the merits of DISC as a tax program. Despite all the rhetoric and all the numbers that have been offered to argue one side or the other of this issue,the real issues involved have not been adequately addressed. DISC is not nearly so much a tax reform issue as it is a U.S. trade policy issue.

The underlying purpose of DISC is to remove an existing distortion in international trade and investment. In addition to establishing a workable system of intercompany pricing on the export of goods, DISC was created to put American exporters on an equal tax-footing with foreign competitors in the export market. The problem is that many foreign countries give their exporters income tax exemptions through rebates of indirect taxes like the value-added tax. Most western European nations have an indirect system of taxes, and I understand that Japan will soon adopt this kind of tax system. But the United States has a direct system of taxes, and the result has been that many foreign exporters do not have to pay any taxes when they export, while American exporters have had an additional tax imposed on them when they try to export to those foreign countries that have indirect taxes.

The issue here is subsidies and the distortion in trade that has resulted from the different systems of tax. The subsidy issue is a very important one, and a very difficult one to resolve. The existing international trading rules on subsidies are vague, and the crucial question of what constitutes a subsidy has never been answered. Article XVI of the GATT deals with subsidies, but it has continued the discriminatory distortion to trade that has resulted from the unequal tax treatment of direct and indirect tax systems.

Article XVI of the GATT states:

Further, as of 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market.

So the subsidy issue is not a new one, and I think it is clear how inadequate the present trade rules are.

As chairman of the Subcommittee on International Trade, I know that when we wrote the Trade Act of 1974, the problem of subsidies was a major concern and one of the highest priorities for our trade negotiators in Geneva. The Trade Act clearly reflects the commitment of the Congress to resolving the difficult and complex issues of subsidies. Section 121 of that Act states:

The President shall take such action as may be necessary to bring trade agreements into conformity with principles promoting the development of an open, nondiscriminatory and fair world economic system. The action and principles referred to include the revision of GATT articles with respect to the treatment of border adjustment for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs.

The European Community has challenged the legality of DISC under article XVI of the GATT, and the United States has filed counterclaims against the legality of the European Community's border tax adjustments. Our complaint is based on article XVI, and we have requested that the cases be heard together, and also, that one decision apply to both the practices of other nations that use indirect taxes and to our DISC program. I think this is fair, and it also shows that the real purpose of DISC is to equalize the trading conditions facing foreign and American exporters.

I want to make it clear. Subsidies are one of the major trading problems faced by the United States, and DISC is the key to reducing the trade barriers created by the tax practices of many of our trading partners.

The hearing on DISC and foreign border tax adjustments in Geneva is a special GATT tribunal. It is a legal hearing, and it is now underway. The United States presented its opening statement before the GATT tribunal on March 16, 1976.

Mr. President, I ask unanimous consent that the full text of those remarks outlining the United States position on DISC, border tax adjustments and the whole question on subsidies appear in full in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. RIBICOFF. These GATT hearings are continuing, in fact, the formal presentation of the United States brief detailing our position on DISC and subsidies is scheduled to be filed this coming week.

If the United States is going to be successful in resolving the subsidies issue, it must have leverage in the Geneva hearing and in the separate GATT negotiations on a new international subsidies code. Our case before the GATT tribunal rests entirely on the premise that DISC is comparable to the tax practices of other nations. In the GATT negotiations, our bargaining position is dependent on DISC, for it enables us to get concessions on border tax adjustments from other nations in return for compromises on DISC. So DISC is important as a bargaining chip, and Ambassador Dent, the President's Special Representative for Trade Negotiations has argued strongly for retention of DISC on just these grounds.

Mr. President, I ask unanimous consent that a recent letter from Ambassador Dent to my distinguished colleague, Senator FANNIN, be printed in the RECORD at this point.

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

THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS,
Washington, D.C., June 15, 1976.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR PAUL: As the Senate begins consideration of the Tax Revision Act, I would like to restate my strong support for the retention of the present legislative coverage and benefits of the Domestic International Sales Corporation (DISC).

Full retention of the DISC will be advantageous to our efforts in the multilateral trade negotiations to reduce foreign nontariff measures that adversely affect United States exports.

Retention also is relevant to our current defense of the DISC before an international panel formed under the GATT to consider the complaint by the European Communities that the DISC is a prohibited subsidy under the GATT. This panel is expected to reach its decision this fall and any weakening of the DISC legislation at this time could be misconstrued.

I hope that, in considering tax revision, you and your colleagues will consider seriously the importance of the DISC in current United States international trade policy. It has proved invaluable in maintaining the U.S. position as an effective base for export. With our trade account having moved into a deficit of approximately $3.8 billion during the first four months of 1976, it seems untimely to consider weakening such an effective encouragement to exports from the U.S.

Sincerely,

FREDERICK B. DENT.

Mr. RIBICOFF. I believe it would be extremely unwise for the Congress to cut off DISC, which has proved so crucial to any satisfactory resolution of the whole issue of subsidies, at this time. If we act unilaterally on DISC, we will be undercutting our negotiators in Geneva, and we will be conceding the important hearings on direct and indirect tax practices now underway in Geneva.

Mr. President, I think the clear concern demonstrated by the European Community over DISC is the best indication of its important role in increasing U.S. exports from $44 billion in 1971 to over $107 billion in 1975. Let us remember, it was the Europeans who initiated the legal battle over DISC in Geneva. As Congressman KARTH has testified before the Finance Committee, the strong feelings of the Europeans regarding DISC are clear. I think our trading partners are the best judge of the effectiveness of DISC, and I think their actions are the

best indication of whether we have an effective program in DISC or not.

To illustrate the kind of benefits offered to exporters by our trading partners, I would like to include a detailed list showing the array of benefits offered, on a country-by-country basis, to foreign companies. Mr. President, I ask unanimous consent that the charts showing these benefits be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. RIBICOFF. I strongly support continuation of DISC. If we are to solve the problem of subsidies once and for all, we must continue DISC.

Let me say, in recent times I have watched as Americans have taken unilateral action on international issues, and the result has frequently been counterproductive. It is not enough to recognize the interdependence of nations and the effect national economic policies have on the world economy and on world trade. We must also take actions that reflect this basic understanding. I urge all my colleagues in the Senate to support continuation of DISC. Otherwise, we will once again be acting in a vacuum without regard for the consequences of our actions. By supporting DISC, we will be supporting the efforts of our negotiators in Geneva to finally resolve an issue that is much larger than DISC, a problem that affects many nations: That is the problem of subsidies and the need for major reform of the international trading rules in this area.

EXHIBIT 1

STATEMENT OF RICHARD R. ALBRECHT GENERAL COUNSEL DEPARTMENT OF THE TREASURY

Mr. Chairman and Members of the Panels: It is a pleasure to be with you today to represent the United States in these proceedings. As you know since the GATT Council first decided to convene the panels on July 30, 1973, more than two and a half years of effort have been expended in reaching agreement on the membership of the panels and we are pleased that it is now possible to move forward with the proceedings.

We note the EC's expression of impatience with the practical difficulties we have encountered. The United States has shared that impatience. We expressed it when we met with Mr. Phan-Van-Phi over a year ago. We have only just now received the substantive views of the EC against the DISC. We too are confident that the GATT machinery for settling disputes will lead to an expeditious and reasonable conclusion.

At the request of the European Community, the GATT Council has convened these panels, although the U.S. thought the problem was a broad one, deserving of Working Party attention. The United States, however, did agree to the convening of the panels. The panels are technically separate but possess identical membership, and were directed by the GATT Council to consider the complaint of the European Community against the provisions of the United States tax code known as the Domestic International Sales Corporation or "DISC," and to consider complaints by the United States against related tax practices of Belgium, France and the Netherlands. Both parties contend that the respective challenged tax provisions are inconsistent with the GATT subsidies provisions embodied in Article XVI.

Although the panels are technically separate, all four cases are to be considered simultaneously. The United States' position is that the income tax practices of Belgium, France and the Netherlands and the DISC legislation raise the same principles concerning the application of the GATT subsidies rules to direct taxation of export income, and that, therefore, all four complaints should be considered together.

It may be useful to the panels for me to briefly review the history that led to the four cases being brought before you.

Unlike Belgium, France and the Netherlands, the U.S., in fact, subjects to tax the entire worldwide income of its resident corporations. Foreign taxes paid on foreign income can be credited against U.S. tax on that income. Thus, the income of a foreign branch of a U.S. corporation will be taxed either by a foreign country, or by the U.S.

As a general rule, the U.S. does not tax the foreign income of foreign corporations, including foreign corporations controlled by U.S. persons. There is, however, one very relevant and very important exception to this general rule. Pursuant to Subpart F of the Internal Revenue Code, a U.S. shareholder of a foreign corporation controlled by U.S. persons is subject to tax on certain income of that corporation. Included in the income taxed is the income from export sales of companies in countries where there is no manufacturing activity.

The U.S. taxes dividends paid to U.S. corporations or individuals subject, in the case of certain corporate distributees, to a foreign tax credit for taxes paid by the distributing corporation.

The results of this system on a U.S. corporation manufacturing in the U.S. for export are quite obvious. Sooner or later it is taxed in full on both the manufacturing and the sales element of the export transaction. If it exports directly, the full profit will be immediately taxed (subject to a credit for foreign taxes paid). If the sale is through a foreign sales subsidiary located in a low tax country, the subsidiary's income is likely to be taxed currently because of Subpart F. Even if Subpart F is avoided, the earnings will be taxed when the profits are repatriated. In addition, the U.S. has inter-company pricing rules which are vigorously enforced and which make unlikely any unrealistic allocations of income to foreign subsidiaries.

This system differs dramatically from the systems of many other countries, including Belgium, France and the Netherlands, which do not in fact tax the foreign sales income earned on their exports. Thus, prior to DISC, U.S. exporters were disadvantaged as compared to those countries.

The U.S. could, of course, have repealed Subpart F and eliminated or curtailed its arm's-length pricing rules, thus falling in line with other countries such as Belgium, France and the Netherlands. However, this would only have encouraged the use of tax havens, which is undesirable.

The United States Revenue Act of 1971 brought about a significant structural improvement and simplification in the tax treatment of United States exporters. Congress provided that U.S. exporters—through the use of Domestic International Sales Corporations (or DISCs)—would be entitled to defer a portion of their export sales income for taxable years beginning on or after January 1, 1972.

The purpose of the DISC legislation was to remove preexisting distortions in international trade, to establish a workable system of inter-company pricing on the export of goods, and to permit United States exporters to receive tax treatment for their export income more comparable to that afforded by many foreign countries to their exporters both by way of income tax exemptions and by way of adjustments of indirect taxes, such as the VAT. As in the case of a typical foreign subsidiary, the DISC itself is not directly subject to United States Federal income tax. However, the DISC's shareholders are treated as receiving one-half of the DISC's earnings currently, whether or not these are actually distributed as a dividend. The remaining one-half of the DISC's earnings may be retained by the DISC and reinvested in its export business, or invested in certain Export-Import Bank obligations or in "producer's loans" to related or unrelated U.S. producers for export without, in general, liability for Federal income tax.

Where a United States parent corporation conducts export sales through a DISC, the DISC legislation allocates the export-related income between the parent and the DISC on a 50–50 basis. Since half of the DISC's income is deemed distributed and taxed currently to shareholders, and only 50%, the half that is retained, is eligible for deferral, in effect only 25% of the export sales income earned through a DISC is eligible for tax deferral. For example, if a corporation exporting through a DISC has $200,000 for export earnings, $100,000 would be allocated to the DISC. Of this amount, $50,000 is taxed currently to the shareholders of the DISC as a dividend and $50,000 is eligible for tax deferral while retained by the DISC.

Deferral of tax on DISC earnings terminates and tax is imposed on the shareholders of the DISC if those earnings are distributed as a dividend, if the corporation no longer qualifies as a DISC, and in certain other cases. In no case is any of the income of a DISC exempted from tax.

At this point, I would like to summarize briefly the GATT law of subsidies against which these provisions are to be examined by the panels. Article XVI:4 provides:

"Further, as of 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market . . ."

Neither the GATT Articles nor the Notes and Supplementary Provisions to GATT define specific practices as Article XVI subsidies. The only official action taken by the Contracting Parties to move towards a definition of subsidies was the adoption by the Contracting Parties on November 19, 1960, of the Report of the Working Party on Subsidies. The Report sets forth a list of measures generally considered as subsidies. With respect to direct taxes, the list includes:

1. "The remission, calculated in relation to exports, of direct tax . . . on industrial or commercial enterprises."

2. "The exemption, in respect of exported goods, for charges or taxes . . ."

Remission of taxes means a forgiveness of taxes. Exemption also entails a permanent forgiveness of taxes. The DISC legislation does not fall within either of these specific categories, since it is not forgiveness of taxes but only a deferral of taxes.

Moreover, it is the United States position that the Working Party Report contemplated a distinction beween the taxation of production income and the taxation of sales income on exports. The remission or exemption of direct taxes on export production income is considered a subsidy, but the language of the Report does not encompass export sales income. Indeed, the tax systems of France, Belgium, the Netherlands and

many other countries have historically exempted export sales income from domestic taxation, and those systems had long been in place at the time Article XVI:4 entered into force in 1962.

In regard to the parties obligations under the General Agreement, the United States expects to adhere strictly to the obligations that we have agreed to undertake. We do not, however, expect to be bound by obligations to which we have not acceded. To find that the DISC, a qualified tax deferral which does not result in bilevel pricing, would lend new breadth to Article XVI:4 to which the United States and, indeed, the other Contracting Parties, have never committeed themselves. To make such a decision would be to make new law and this is not a proper function of an Article XXIII:2 procedure of panel.

Notwithstanding the United States position that the DISC affords only deferral of taxes and is thus permissible under Article XVI, and that in any event Artivle XVI does not deal with export sales income, shortly after the DISC legislation was enacted, the European Community requested consultations with the United States under GATT Article XXIII:1. The Community alleged that the DISC entailed exemption from direct taxes on exports and thus would be incompatible with the subsidies provisions of the General Agreement. It is our view that the Community's objections are based on a misunderstanding of the purpose and effect of DISC and what the DISC accomplishes in comparison with the practices of other countries, including practices being challenged here by the United States, which grant tax exemption rather than tax deferral.

The United States also requested Belgium, France and the Netherlands to enter into consultations concerning their tax laws and practices which result in exemption from or deferral of income taxes with respect to income from export transactions. Bilateral consultations between the European Community and the United States and between the United States and Belgium, France and the Netherlands were held in 1972. However, the consultations yielded no satisfactory adjustment. In that recourse to the procedures provided under Article XXIII:1 had been exhausted with no result, both the Community and the United States brought their complaints before the Contracting Parties for consideration pursuant to the procedures under Article XXIII:2.

On July 30, 1973, the GATT Council directed that four panels be established to consider the European Community's complaint against the DISC and the United States' complaint against the tax practices of Belgium, France and the Netherlands in light of the views of the parties as expressed during the Council meetings of May 29 and July 30, 1973. The representative of the United States stated our willingness to have the Community complaint against the United States and the United States complaint against Belgium, France and the Netherlands considered by four panels, provided they had identical membership and provided other pertinent matters were agreed upon.

The United States delegation was willing to have the Community complaint considered first provided the United States would have the right to a consideration of its complaints against the three countries before any findings or recommendations relating to the DISC were reported by the Panel. The United States also stated that it expected that it could discuss the tax practices of other countries, including, but not limited to, those of Belgium, France and the Netherlands, during the consideration of the DISC as an aid in the interpretation of obligations under Article XVI:4 of the GATT. The representative of the European Community agreed to the structure of the panels and stated that in the discussions the parties could bring up any arguments they deemed appropriate. As has been pointed out, the interval since the Council meeting has been devoted to constituting the panel membership.

The United States would like to emphasize that the European Community, not the United States, has invoked this GATT dispute resolution machinery. Accordingly, we feel strongly that the EC should bear not only the burden of proof but the burden of going forward with its case. We think much more must be required of a complaining party in these proceedings than merely to raise the threshhold question of a challenged tax practice under Article XVI. Rather, we feel that the United States must be afforded an opportunity to review a comprehensive presentation of the EC's case, including factual data on such issues as bilateral pricing, before we fairly can be expected to offer the panels a defense of the DISC that will be on point.

We believe DISC is consistent with the GATT subsidies rules since its effect is essentially identical to the tax practices of these and most other industrial countries. When the EC challenged DISC, the United States countered with complaints against the tax practices of France, Belgium and the Netherlands. Since the tax practices of these countries confer even greater benefits on exporters than the DISC, we contend that, if DISC violates Article XVI, *a fortiori* the European practices are even more clearly in violation.

While the United States feels that the EC has the burden of going forward with its case against the DISC, the United States is prepared to present its affirmative case against the tax practices of France, Belgium and the Netherlands at the same time. Further, we would emphasize that all four cases involve common issues.

With respect to the United States cases, while the practices of the three countries differ in some particulars, there are many parallels and all three can be understood and examined in terms of the same legal principles. The United States will present its case in a manner that will assist the panels in comparing each of the three with the others and with the DISC. Finally, we feel the DISC can only be fairly tested under Article XVI following the panels enunciation of an interpretation of that provision developed after hearing all four cases and which it is prepared to apply to all four.

I would like to summarize the issues that will be involved as we foresee them, the main arguments that the United States would expect to offer in defense of DISC, and the United States arguments against the tax practices of France, Belgium, and the Netherlands.

SUMMARY OF ARGUMENT IN DEFENSE OF THE DISC

1. DISC is compatible with GATT. The DISC does not constitute a subsidy under Article XVI of the General Agreement on Tariffs and Trade (GATT) as interpreted by a 1960 working party on subsidies. The deferral of income taxes on export sales income is not a subsidy within the meaning of Article XVI. The DISC provisions do not provide an "exemption" from income taxes, as that term was used in the 1960 working party report, but only a limited deferral of tax on a portion of the export income. Thus, the DISC does not constitute a subsidy for the purposes of Article XVI:4.

2. Other Contracting Parties follow similar practices. Many other contracting parties bound by Article XVI:4 have followed the practice of exempting from taxation a portion of export sales income. These practices have not heretofore been regarded as constituting subsidies on exports in violation of Article XVI:4. Since the DISC provisions achieve essentially the same result as these preexisting tax practices by other nations, it follows that they cannot be considered to violate Article XVI:4.

3. The DISC does not result in bilevel pricing in violation of Article XVI:4. Even if the DISC provisions were determined to constitute a subsidy, they could not be prohibited under Article XVI:4 unless it could be established that they result in the sale of products for export at lower prices than those of like products sold domestically. The DISC provisions were not designed to enable U.S. exporters to reduce export prices below comparable domestic prices and we know of no evidence to demonstrate that they have in fact resulted in lower export prices. We believe that the EC must bear the burden of producing actual data substantiating bilevel pricing effects stemming from DISC in order to state a *prima facie* case under Article XVI.

4. The DISC legislation has not created a distortion in the conditions of international competition. The underlying purpose of the DISC legislation is to remove an existing distortion in the pattern of international trade and investment which resulted from the income tax structures of the United States and other countries. This distortion disadvantaged U.S. exporting firms. This distortion occurred because the U.S. taxes the entire worldwide taxable income of its corporations while other countries do not. Export sales income of U.S. based manufacturers, exporting through a foreign sales subsidiary, is subject to U.S. tax by reason of the anti-tax haven provisions of U.S. law (subpart F of the Internal Revenue Code). This contrasts with the law of most other countries which provides for an exemption from tax for the income of foreign subsidiaries of local parents. In some cases all foreign source income is exempt from tax. If the sales element of the profit on exports can be allocated abroad to a tax haven or low tax country (and in most cases it can) then the sales element is effectively exempt from tax. A primary purpose of the DISC legislation was to remove this distortion by providing tax deferral for a portion of the export sales income of U.S. based manufacturing firms. Thus the effect of the DISC is to neutralize taxation as a consideration for U.S. firms in deciding whether to locate manufacturing facilities at home or abroad and to remove the competitive disadvantage previously experienced by U.S. exporters by bringing U.S. tax practices more in line with those of other countries. The DISC provisions permit a U.S. exporter to operate through a U.S. corporation rather than through a foreign tax haven.

5 The DISC establishes a reasonable rule-of-thumb on the portion of export sales income eligible for tax deferral. The essence of the DISC legislation is its establishment of a rule-of-thumb for determining what portion of the total income of a U.S. firm manufacturing for export is to be treated as manufacturing profits, currently taxable in the United States, and what portion is to be treated as profit on export sale, subject to tax deferral. The DISC legislation in effect establishes a 75–25 allocation of profits between the manufacturing function and the export sales function. We believe this is a reasonable allocation in view of the practices of most other countries . . .

EXHIBIT 2

CHART I—TAX INCENTIVES FOR EXPORTS

	Austria	Portugal	Australia	New Zealand	Japan	Canada
Taxation of foreign branch income.	Fully taxed at usual rate (progressive rates from 30 to 55 percent). Deduction for foreign taxes paid. Foreign tax credit upon application.	Exemption of 2/3 of income (effective tax rate of 17.4 percent).	Exempt except it has not been taxed abroad (tax rates from 47.5 to 50 percent).	Fully taxed at usual rate (tax rates are from 20 to 45 percent). Foreign tax credit.	Taxable at usual rate (effective tax rate of 52 percent). Favorable foreign tax credit system.	Fully taxable at usual rate (46 percent). Foreign tax credit.
Taxation of foreign subsidiaries.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	Yes, but under conditions less stringent than under subpt. F income.
Deductibility of foreign branch losses.	Fully deductible	Fully deductible	Fully deductible	Fully deductible	Fully deductible	Fully deductible.
Taxation of foreign source dividends.	Exempt if at least 25 percent control.	Exempt if at least 25 percent control. 1/3 taxable in other cases.	Exempt in practice	Exempt	Fully taxed at usual rate. Direct and deemed paid foreign tax credit.	Exempt when foreign subsidiary is controlled (50 percent). Partial exemption from 1986. Foreign tax credit.
Special deferrals of taxable domestic income.	Investment reserves	None		None	Income may be deferred for: Overseas market development; overseas investment losses; foreign exchange losses.	None.
Specific export tax incentives.	10 percent writeoff with respect to acquisition of shares in certain foreign entities. Custom free zones.	do	Deductions and rebates for export market development expenses.	Deduction of 150 percent of the cost of export related expenditures. Deduction of an amount related to increased export sales.	Reserves for overseas market development—Deduction of overseas investments. Reserves for foreign exchange losses. Special deductions for certain overseas transactions.	Do.
Intercompany pricing rules					Favorable treatment for exporting companies.	
Border tax adjustments (VAT).	VAT (rate 16 percent) zero rate on exports.	None	None	None	None	Do.
Tax incentives indirectly benefiting exports.	Accelerated depreciation or tax-exempt investment reserve.[1]	Reduced tax rate or exemption from taxation products or processes. Accelerated depreciation.	do		do	Tax reduction for manufacturing income. Accelerated depreciation. Investment tax credit.[1]

	Belgium	France	Germany	Italy	Luxembourg	Netherlands
Taxation of foreign branch income.	¼ the usual rate (48 percent).	Exempt (corporate tax rate is 50 percent).	Normal tax rate (51 percent) plus foreign tax credit or, in certain cases, imposition of a flat 25 percent tax rate.	Taxed at usual rate (35 percent). Foreign tax credit.	Exemption on 50 percent of income (progressive tax rate from 20 to 49 percent). Foreign taxes deductible.	Taxed at usual rate. Favorable foreign tax credit system.
Taxation of foreign subsidiaries.	None. No subpt. F income equivalent.	None except if election is made. No subpt. F income equivalent.	Yes, but under conditions less stringent than the U.S. subpt. F provision.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.
Deductibility of foreign branch losses.	Fully deductible even though foreign income is exempt under tax treaty.	Not deductible[3]	Fully deductible even though foreign income is exempt under tax treaty.[4]	Fully deductible		Fully deductible.
Taxation of foreign source dividends.	Permanent participation (held for more than 1 yr): 95 percent exclusion plus 5 percent tax credit. Nonpermanent participation: 15 percent tax credit.	95 percent exclusion if French company owns 10 percent or more of the stock.	Fully taxed at usual rate. Foreign tax credit and deemed paid foreign tax credit under certain circumstances.	Fully taxed at usual rate, Foreign tax credit.	50 percent exclusion if at least 25 percent control. Total exemption for holding companies. Foreign taxes deductible.	Exempt in majority of cases.
Special deferrals of taxable domestic income.	None	Income may be deferred for: losses of certain foreign business; cost of investment in certain business in LDC's; export credit extended to foreign buyer.	Income may be deferred for: Losses of foreign branches whose income is tax exempt: losses of foreign subsidiaries; profits realized upon an exchange of property for stock of a foreign corporation.		None	None.
Specific export tax incentives.	do	Joint export programs—Election to compute income on a worldwide basis—A special deferral—Exclusion from the "inflation levy."	None		do	Tax credit for withholding tax on interest and royalties paid by residents in certain nontreaty LDC's.
Intercompany pricing rules.	Will provide assurances on allocation in certain cases. Historically generous to exporters.	As a general rule, not enforced against exporters.	Usually enforced although relaxation may be granted in special circumstances.			Usually enforced but special agreement used. May be negotiated with the tax authorities.
Border Tax Adjustments (VAT).	VAT (18 percent rate) up to 25 percent for luxury items. Zero rate on exports.	VAT (20 percent rate) up to 33 percent for luxury items. Zero rate on exports.	VAT (11 percent rate). Zero rate on exports.	VAT (12 percent up to 30 percent for luxury items). Zero rate on exports.	VAT (rate 10 percent). Zero rate on exports.	VAT (16 percent rate). Zero rates on exports.
Tax incentives indirectly benefiting exports.	Accelerated depreciation; exemption from real estate tax; reduced income tax rate on certain reinvested porfits.[5]	Accelerated depreciation; exemption from local business tax; reduction of registration taxes.[5]	Accelerated depreciation; reduction of corporate tax rate and VAT rates.[5]	Tax exemption or reduction for financial government owned companies.[5]	Investment credit from 3 to 9 percent of cost of certain capital assets.	Accelerated depreciation.[1] Investment tax credit from 8 to 16 percent of cost of certain capital assets.

	United Kingdom	Ireland	Denmark	Norway	Sweden	United States
Taxation of foreign branch income.	Taxable at usual rate (52 percent). Foreign tax credit.	Taxable at usual rate. (Average rate 50 percent.) Deduction for foreign taxes paid.	Taxed at half the usual rate (½ of 37 percent). Foreign tax credit.	Exemption on 50 percent of income (rate is 26.5 percent).	Taxed at usual rate (effective income tax rate is 54 percent). Foreign tax credit.	Fully taxable at usual rate (48 percent). Foreign tax credit.
Taxation of foreign subsidiaries.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	None. No subpt. F income equivalent.	Yes, under subpt. F provisions.
Deductibility of foreign branch losses.	Fully deductible. Deductible against foreign source business income only when carried over to following years	Fully deductible	Fully deductible		Fully deductible	Fully deductible.

CHART I—TAX INCENTIVES FOR EXPORTS—Continued

	United Kingdom	Ireland	Denmark	Norway	Sweden	United States
Taxation of foreign source dividends.	Fully taxed at usual rate. Direct and deemed paid foreign tax credit.	Fully taxed at usual rate	Fully taxed at usual rate Deemed paid foreign tax credit.	Half-exempt if at least 95 percent control.	Fully taxed at usual rate. Foreign tax credit.	Fully taxed at usual rate. Direct and deemed paid foreign tax credit.
Special deferrals of taxable domestic income.	None		None	Tax free reserves deductible.		About 25 percent of taxable income may be deferred under the DISC provisions.
Specific export tax incentives.	Deduction of business entertainment expenses connected with export activities.	Exemption from corporate taxes on profits attributable to exports of goods produced in Ireland.		do	Additional deduction for interest charged on export credit.	None, aside from DISC.
Intercompany pricing rules.	Not actively used				Not actively used	Strictly enforced, including against export industry. Important cases against exporters pending.
Border tax adjustments (VAT).	VAT (8 percent rate up to 25 percent for luxury items). Zero rate on exports.	VAT (19.5 percent up to 36.5 percent for luxury items). Zero rate on exports.	VAT (15 percent rate). Zero rate on exports.	VAT (20 percent rate). Zero rate on exports.	None	None at Federal level.
Tax incentives indirectly benefiting exports.	Favorable rates of depreciation.[1]	Accelerated depreciation.[1]	Tax-free investment reserves constituted by 20 percent of annual profits. Dissolved after 10 yrs.[1]	Accelerated depreciation. Tax-free reserves deductible.[1]	Accelerated depreciation.[1]	Accelerated depreciation, investment tax credit (10 percent).

[1] Most of the tax incentives are granted in connection with industrial and regional development.
[2] Foreign branch income is taxable at usual rate if the French company elects to be taxed on a worldwide or consolidated basis.
[3] Losses of foreign branches are deductible when the domestic company elects to be taxed on a worldwide or consolidated basis.
[4] When the income has not been taxed abroad, the amount deducted for foreign losses must be put back into income after a number of years.
[5] Most of the tax incentives are granted in connection with industrial and regional development.

CHART II—NONTAX INCENTIVES FOR EXPORTS

	Austria	Portugal	Australia	New Zealand	Japan	Canada
Nontax incentives indirectly benefiting exports.	Investiment allowances [1]		None			Cash grants.[1]
Financing assistance	Guarantees for medium-term credits. Rate of interest is 7 percent.				Direct loans for medium-term sales. Long-term credits at preferential rates (from 7.5 percent to 8.75 percent). Financing of contract value from 48 to 64 percent. Mixed credits.	
Insurance assistance					Are insured: Production risks; commercial risks; political risks; currency fluctuations; loss of foreign investment. Risks are covered from 60 to 80 percent.	

	Belgium	France	Germany	Italy	Luxembourg	Netherlands
Nontax incentives indirectly benefiting exports.	Interest subsidies: Investment subsidies. [2]	Grants: Investment subsidies.[2]	Grants [3]	Capital grants: Long and medium-term loans by specialized government institutions.[2]	Grants: Loans; guarantees.[2]	Investment subsidies: Interest subsidies.[3]
Financing assistance	Discount at low rates. Interest rebates on export credit. Subsidized medium term export financing. Average rate borne by exporters is 9 percent. Financing of up to 90 percent of contract value.	Discount at low rates. Long-term loans at 7.5 percent rate to both suppliers or buyers. Financing of up to 100 percent of contract value. Mixed credits.	Discount at low rates. Guarantees. Long-term credits to both suppliers or buyers. Preferential rates of 10 percent. Financing of up to 80 percent of contract value. Mixed credit.	Discount at low rates. Interest subsidies. Long-term loans at 8.95 percent rate to both suppliers and buyers. Financing of up to 100 percent of contract value.		Discount at low rates. Guarantees. Subsidized medium and long-term export credits. Average interest rate borne by exporters is 9.5 percent. Financing of up to 90 percent of contract value.
Insurance assistance	Are insured: Commercial risks; political risks; currency fluctuations; risks covered from 80 to 100 percent.	Are insured: Production risks; commercial risks; political risks; currency fluctuations; market development; exhibition expenses; inflation risks; risks are covered from 80 to 100 percent.	Are insured: Production risks: commercial risks; political risks; currency fluctuations; inflation risks; risks are covered from 80 to 100 percent.	Are insured: Commercial risks; political risks; currency fluctuations; inflation risks; risks are 90 percent covered.		Are insured: Commercial risks; political risks; currency fluctuations; insurance usually covers from 75 to 100 percent of the risks.

	United Kingdom	Ireland	Denmark	Norway	Sweden	United States
Nontax incentives indirectly benefiting exports.	Grants; investment subsidies; interest subsidies;[1] employment subsidies.[2]	Investment allowances; training grants; loan guarantees.[1]	Loans: Cash grants [1]		Investment allowances: loan guarantees.[1]	None except limited agricultural subsidies.
Financing assistance	Guarantees. Interest rate subsidies. Portfolio refinancing. Support granted on a supplier and buyer basis. Interest rate borne by borrowers: 7.8 percent. Financing of up to 100 percent of contract value. Mixed credits.	Guarantees. Medium-term loans at preferential rates (8 percent). Financing of up to 80 percent of contract value.	Guarantees. Financing of up to 90 percent of contract value. Interest rate is 8.5 percent after 1st year.		Medium- and long-term financing at 2 or 3 percent above discount rate. Financing of up to 100 percent of contract value.	Discount at medium rates. Guarantees. Long-term export credit financing at interest rates from 8.25 to 9.5 percent. No mixed credits. Financing of 30 to 55 percent of contract value.
Insurance assistance	Are insured: Commercial risks: political risks; production risks; inflation risks; currency fluctuations; performance bonds; risks are covered up to 100 percent.	Are insured: production risks; commercial risks; politica risks; currency fluctuations. Risks are covered up to 100 percent.	Are insured: Commercial risks; political risks; currency fluctuations; risks are covered from 65 to 90 percent.		Are insured: Commercial risks; political risks; currency fluctuations; inflation risks: risks are covered up to 90 percent.	Are insured: Commercial risks; exhibition expenses; political risks; risks are covered up to 95 percent.

[1] Most of the nontax incentives are granted in connection with industrial and regional development.
[2] Most of the nontax incentives are granted in connection with industrial and regional development. In Belgium, interest subsidies are granted for the purpose of investment throughout the country and not only in depressed areas.
[3] Granted in order to encourage employers to retain employees.

CHART III—TAX INCENTIVES FOR EXPORTS [1]

	Belgium	France	Germany	Italy	Luxembourg	Netherlands	United Kingdom	Ireland	Denmark	Norway	Sweden	Switzerland	Austria	Portugal	Australia	New Zealand	Japan	Canada	United States
Partial or total exemption on foreign branch income.	X	X	X		X				X	X		X		X	X				
Foreign subsidiaries not subject to tax.	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Foreign branch losses deductible.	X		X	X	NA	X	X	X	X	NA	X		NA	NA	X	NA	X	X	X
Partia or total exemption on foreign source dividends.	X	X			X	X			X			X	X	X	X	X		X	
Special deferrals of domestic income.		X	X	NA				NA		X	NA				NA		X		X
Export tax incentives		X				X	X	X	NA	X	X		X		X	X	X		DISC only.
Nonenforcement of intercompany pricing rules.	X	X		NA	NA	X	X	NA	NA	NA	X	NA	NA	NA	NA	NA	X		
Border tax adjustments	X	X	X	X	X	X	X	X	X	X			X						

[1] X indicates country has incentives. NA indiciatws that information not available.

CHART IV—NONTAX INCENTIVES FO REXPORTS [1]

[In percent]

	Belgium	France	Germany	Italy	Luxembourg	Netherlands	United Kingdom	Ireland	Denmark	Norway	Sweden	Switzerland	Austria	Portugal	Australia	New Zealand	Japan	Canada	United States
Nontax incentives indirectly benefitting exports.	X	X	X	X	X	X	X	X	X	NA	X		X	NA		NA	NA	X	
Financing Assistance														NA	NA	NA		NA	
Rate of interest	9	7.5	10	8.95	NA	9.5	7 8	8	8.5	NA	(2)	NA	7				7.5 to 8.7 percent.		8.25 to 9.5 percent.
Portion of contract value financed.	90	100	80	85	NA	90	100	80	90	NA	100	NA	NA				48 to 64 percent.		30 to 55 percent (to buyers).
Mixed credits		X	X														X		
Insurance assistance					NA					NA		NA	NA	NA	NA	NA		NA	
Commercial risks	X	X	X	X		X	X	X	X		X						X		X
Political risks	X	X	X	X		X	X	X	X		X						X		X
Production risks		X	X				X	X									X		
Currency fluctuations	X	X	X	X		X	X	X			X						X		
Performance bonds							X												
Market developments		X																	
Exhibition expenses		X																	
Inflation risks		X	X	X			X				X								X

[1] X indicates country has incentives.

NA indicates that information not available.

[2] 2 or 3 percent above discount rate.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Is there further morning business?

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

MILITARY CONSTRUCTION APPROPRIATION ACT, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14235, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 14235) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. The time for debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Montana (Mr. MANSFIELD) and the Senator from Alaska (Mr. STEVENS), with a limitation of 30 minutes on amendments in the first degree, and a limitation of 20 minutes on amendments in the second degree, debatable motions, appeals, or points of order.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield me 30 seconds?

Mr. MANSFIELD. Yes, indeed.

Mr. ROBERT C. BYRD. Mr. President, the day before yesterday the Senator from North Carolina (Mr. MORGAN) indicated to me that he did not want a unanimous-consent agreement entered into on this measure. As it so happens, the unanimous-consent agreement has already been entered.

He asked me to get for him 30 minutes for himself to use during the debate on the Uniformed Services University of the Health Sciences. I, therefore, ask unanimous consent that 30 minutes be allotted to Mr. Morgan for his control on that subject.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, I do not want to object, but under the circumstances, since the 30 minutes is allotted against my amendment, I would like to ask for equal time, or an additional 30 minutes.

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

Mr. MANSFIELD. Mr. President, I present today for the consideration of the Senate H.R. 14235, together with the report from the Committee on Appropriations, No. 94–971, making appropriations available for military construction for the Department of Defense for fiscal year ending September 30, 1977 and for other purposes.

In presenting this bill I will not provide detailed figures concerning each project. The project breakdown and explanations are contained in the report which has been placed on each Senator's desk.

The committee held extensive hearings with the military departments and the Department of Defense concerning their construction project requests. Almost 500 different projects were considered. Even so, this is the smallest number of projects considered in my memory.

As pointed out last year in the presentation of the fiscal year 1976 military construction bill, the reduction in the number of men under arms and realinements in the Army, Navy, and Air Force bases continues to create uncertainty. The defense all-volunteer force concept continues to cause a large outlay of dollars in the construction program, particularly, in the barracks and "things for people" area. This bill contains significant amounts for each of the services for either new troop housing or for the upgrading of substandard barracks complexes.

Before going into the recommendations of the Committee on Appropriations, I will briefly summarize the pertinent facts pertaining to the bill.

The amount of the fiscal year 1977 budget estimate as presented to the Senate was $3,467,000,000. The amount of the bill as passed by the House was $3,293,118,000. The committee is presenting for consideration by the Senate today a bill amounting to $3,426,891,000. This is an increase of $133,773,000 over the amount passed by the House.

The reason for that is that many new requests were made after the bill had passed the House of Representatives. The Senate considered them, and for that reason the amount was increased. But even with that, the bill as presented today is $40,109,000 below the fiscal year 1977 budget estimate.

Consideration should be given to the fact that $1.2 billion of this bill is for family housing and of that amount approximately $1.1 billion is for fixed charges. In actuality, this bill today for construction projects amounts to approximately $2.3 billion.

The bill is made up of a number of large projects that, when combined with the housing figure, amount to approximately 80 percent of the bill. These large projects are as follows:

	Millions
Air Force, engine test facility, Arnold Engineering Center	$437
TRIDENT submarine base construction	137
Bachelor enlisted housing	181
Hospitals	146
Pollution abatement	158
Aircraft shelters, USAF, Europe	38
Energy conservation	125
Nuclear security	110
Planning and design	135

When added up, this total does not leave much money for the construction of individual projects in the services.

Under the Reserve forces program, the committee has recommended a total of $187 million.

Family housing is in an appropriation account different from the services and amounts to $1,304,523,000.

Recommended construction amount for each of the services is as follows:

Army	$611,537,000
Navy	578,301,000
Air Force	809,176,000
Defense Agencies	49,396,000

The amount provided to this subcommittee when the Committee on Appropriations allocated the amounts provided by the first concurrent resolution was $3.5 billion in budget authority. The bill, is approximately $73 million below this target figure in budget authority as assigned by the committee to this subcommittee.

The bill before you today contains no appropriation for the Uniformed Services University of the Health Sciences, or for the naval installation on the island of Diego Garcia.

ARMY

The Army program continues emphasis on facilities of direct benefit to the soldier. The committee has recommended approval of $240 million to provide such items as a new hospital at Fort Campbell, six new dental facilities, over 9,000 new or modernized enlisted barracks and the expansion of two dependent schools in Germany.

The Army has increased its emphasis on energy conservation, pollution abatement and nuclear weapons security. These highly commendable programs are recommended for approval at $50, $66 and $44 million respectively.

The committee recommends $267 million for the Army Forces Command. A major portion of this amount, $102 million, will allow the Army to continue its efforts, begun in fiscal year 1975, to provide facilities that will support the stationing of a 16-division active Army and therefore greatly improve its combat power. Other major efforts are being made to improve the working areas of the soldier.

The committee recommends $76 million for the training and doctrine command and $1 million for the military district of Washington.

For the Materiel Development and Readiness Command the committee recommends $66 million with primary emphasis on pollution abatement and research and development projects.

At the Military Academy the recommended amount is $3 million, for the Health Service Command it is $1 million, and for the Military Traffic Command it is about $0.5 million. The committee recommended approval of $2.5 million for nuclear weapons security inside the United States.

For the overseas commands, the recommended program includes $14 million for Korea—primarily for relocatable barracks, $100,000 for pollution abatement in Okinawa, $4 million for Army security overseas stations, $17 million for Europe, $80 million for the U.S. share of the NATO infrastructure program, and $42 million for nuclear weapons security.

The committee recommends $70 million for general authorization. This includes $24 million for minor construction, $1 million for access roads, $41.5 million for planning to include $3 million for special studies in regards to base closures, and $3.5 million for impact assistance due to sudden closure of Safeguard anti-ballistic-missile system.

NAVY

The major portion of the Navy program is for facilities to support the Trident weapons system. The amount recommended this year of $137 million makes the total authorized and appropriated for the various locations, Trident facilities project, $491 million, leaving approximately $175 million of facilities construction in fiscal years 1978, 1979, and future years. This year's project contains operational facilities for the submarine and missile at the Bangor Submarine Base, Washington, and missile production and storage facilities for the lead-ship demonstration and shakedown operations as well as for submarine loadouts of operational missiles.

The Navy also had significant programs for pollution abatement, energy conservation and nuclear weapons security facilities for which the committee recommends $40, $42 and $35 million, respectively.

For the Bureau of Medicine and Surgery, $45 million is recommended for a replacement hospital at Orlando, Fla., and other medical and dental facilities.

For the Marine Corps, which continues to stress bachelor housing projects, the committee recommends $47 million.

The programs recommended for the commanders in chief, Atlantic and Pacific Fleets are $65 and $48 million, respectively. These amounts include pollution abatement and energy conservation projects. For the Commander in Chief, Atlantic Fleet, $22 million is for a pier at the Norfolk Naval Station and $13 million for an air combat maneuvering range. The major portion, 71 percent, of the program for the Commander in Chief, Pacific Fleet, is devoted to pollution abatement and energy projects.

Recommended for the Chief of Naval Material is $121 million of which approximately $54 million is for the modernization of shipyards. Significantly, the Armed Services Committees recommended the addition of $18 million for the Chief of Naval Material to advance this year's program for shipyard modernization projects at Charleston and Pearl Harbor Naval Shipyards and a maintenance and repair facility at the Gulfport Naval Construction Battalion Center. The committee accepted the recommendations of the Armed Services Committees on these projects and recommends the addition of a project in the amount of $878,000 to replace, under the restoration of damaged facility authority, a comptroller office destroyed by fire at the Indian Head Naval Ordnance Station.

AIR FORCE

This year the Air Force is again attempting further effort to clear up the air and was as set forth under Federal law. The 22 individual pollution control projects at 20 locations provides further progress in meeting congressionally mandated milestones as set forth in the Clean Air Act and the Federal Water Pollution Control Act of 1972.

As we have become more aware of the magnitude of the problem, the Environmental Protection Agency, States, and local governments have developed and promulgated more stringent standards. The Air Force has studied their needs in depth and to be responsive have submitted their largest single pollution control program request.

Of the $52 million submitted, one project for $32 million is for air pollution control at Wright-Patterson AFB, Ohio.

This project was deferred from last year's program to allow for a more detailed study of possible options. The study is now complete and the results have been incorporated in this project. This significant pollution control effort will result in consolidation and modernization of outmoded heating plant facilities, provide pollution abatement control devices to insure continued attainment of the national ambient air quality standards and allow the continued use of coal during this critical period requiring conservation of liquid fossil fuel. The Air Force is continuing to place emphasis on improving the living conditions for its bachelor personnel. First priority is being placed on providing adequate accommodations for their junior enlisted personnel.

The current bill requests a compromise of modernization and new construction to satisfy the most pressing deficiencies while the Air Force reassesses its long-range construction and modernization requirements to determine the most cost effective and timely approach to provide an improved quality of living for its bachelor personnel. The request is for new accommodations to house 100 enlisted personnel and the modernization of existing facilities to accommodate 934 enlisted personnel.

The modernization of these existing facilities which are structurally sound will bring them to a standard of liveability comparable to that enjoyed by civilians in the same pay scale. Air Force surveys have revealed that privacy is a primary concern to its bachelor personnel. These projects are designed to achieve that objective. The modernization program will include upgrading of utility systems providing carpeting and development of environmental control within each room. It will provide acoustical improvements to reduce noise levels and it will provide semiprivate bathrooms. I believe that this bachelor housing program will provide comfortable and quiet living space and a maximum of privacy without being ostentatious.

The Air Force continues to be convinced of the urgent need to provide hardened shelters for tactical fighter aircraft in Europe. This is the third consecutive year that funds have been requested. Actual experience has shown that unsheltered aircraft are very vulnerable to the full array of area weapons such as napalm, bomblets, and strafing, as well as near misses with heavy conventional ordnance. The $38 million is recommended in this bill for aircraft shelters.

The committee has recommended funds to provide facilities for the advanced airborne command post at Offutt Air Force Base, Nebr. Committee members have scrutinized this requirement and have determined it to be essential to an adequate national defense.

These facilities, combined with a "power-on" alert, will assure an airborne capability which will enhance the survivability of the national command authorities, the Joint Chiefs of Staff and the Commander in Chief, Strategic Air Forces.

The construction of an aeropropulsion systems test facility at the Arnold Engineering Development Center, Tullahoma, Tenn., is by far the largest single project in the bill.

Because of the cost of the project, $437 million, the committee has reviewed the requirement in considerable depth as presented in this bill. We have also reviewed testimony received not only from expert Air Force witnesses, but also from nonmilitary experts including the Chief Science Adviser to the President and Director of the National Science Foundation. Additionally, competent experts from the private sector of the aviation industry have all voiced absolute support of the project.

Our approval of this project will assure the continued supremacy of our Nation in the design and development of air breathing aircraft engines. The high cost of the facility relates to the fact that it will enable testing of an actual aircraft engine in a capsule in which supersonic speeds and a full range of temperatures. Pressures and altitudes can be simulated for all operating phases of an aircraft engine. Being able to test engines in this configuration saves tremendous flying hours and avoids cost overruns experienced when engine modifications become necessary if the testing must be accomplished in actual flight. The facility will exceed that of any other nation and will not be duplicated by any other Government agency or by the private aircraft industry. It can pay for itself in the savings that will be realized in just one future engine development.

FAMILY HOUSING, DEFENSE

The committee has recommended an appropriation of $1,304,523,000 for the fiscal year 1977 military family housing program. This is a decrease of $27,721,000 from the amount appropriated for fiscal year 1976, reflecting a notably austere budget request by the Department of Defense. While the fiscal restraint shown by the Department of Defense with regard to this program is commendable, the committee is deeply concerned with the large, ever growing backlog of deferred maintenance in military family housing. The Services estimate that this backlog will grow to $333 million by the end of fiscal year 1977.

Surely budgetary cutbacks would be more appropriate in areas other than maintenance, where chronic underfunding can lead only to depressed occupant morale and higher costs to the taxpayer when essential work is ultimately done at higher price levels. With this in mind, the committee has deferred approval of $18,490,000 for modernization of existing housing and $6,510,000 for energy conservation projects with long amortization periods. This will help the maintenance situation somewhat, and will raise the amount appropriated for operation, maintenance and leasing to $1,065,200,000.

The committee has recommended $80,576,000 in new appropriated funds for family housing construction. This provides $25,890,000 for energy conserving improvements, $1,005,000 for planning, $5,220,000 for minor construction, and $48,461,000 for the construction of 1,094 new family housing units. The committee added $1,676,000 to the Defense request in order to construct 40 houses at Gila Bend Air Force Auxiliary Field, Ariz. Additional units are sorely needed at this remote installation, where manning has been increased and community housing support is virtually nonexistent.

Lastly, $158,747,00 of new appropriated funds is recommended for debt payment and servicemen's mortgage insurance.

DEFENSE AGENCIES

For the Department of Defense Agencies, the committee recommends a fiscal year 1977 appropriation of $49,396,000. This is $31,704,000 below the budget estimate of $81,100,000 and is in agreement with the amount authorized by the Committees on Armed Services.

The appropriation breakdown is as follows: Defense Mapping Agency, $1,478,000; Defense Nuclear Agency, $20,000,000; Defense Supply Agency, $19,221,000; and the National Security Agency, $2,247,000. For general support programs the committee recommends approval of $3,450,000 which includes $2,000,000 for minor construction; $1,000,000 for planning and design; and $450,000 for supporting activities.

Included in the bill is $20 million to clean up Enewetak Atoll. This will entail cleanup of radiological and structural debris resulting from U.S. atmospheric nuclear weapons testing. Cleanup is necessary to honor our commitment to return the Enewetak people to their home atoll. This $20 million matches the authorization previously granted by the Congress in fiscal year 1976. During the past year, Defense has made exhaustive efforts to plan the cleanup of Enewetak not only at the most austere level consistent with the safety of the people to be resettled there, but also to plan for the maximum use of military construction forces and their equipment. We strongly believe that $20 million represents the lowest and most realistic estimate of funds required to make Enewetak Atoll safe for human habitation.

I will be glad to answer any questions that the Senators may have concerning individual projects or any figures that are presented in the bill. In closing I would like to say that the Appropriations Committee was unanimous in reporting the bill to the Senate floor.

Mr. MANSFIELD. I ask unanimous consent to have printed in the RECORD a comparative statement of new budget—obligational—authority for 1976 and budget estimates and amounts recommended in the bill for 1977.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1976 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1977

Agency and item	New budget (obligational) authority, fiscal year 1967	Budget estimates of new (obligational) authority, fiscal year 1977	New budget (obligational) authority recommended in House bill	Recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with— Appropriations, new (obligational) authority, fiscal year 1976	Budget estimates, new (obligational) authority, fiscal year 1977	House bill, new (obligational) authority
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Military construction, Army	$790,025,000	$649,500,000	$571,565,000	$611,537,000	−$178,488,000	−$37,963,000	+$39,972,000
Military construction, Navy	770,018,000	595,200,000	526,252,000	578,301,000	−191,717,000	−16,899,000	+52,049,000
Military construction, Air Force	550,644,000	802,300,000	777,900,000	809,176,000	+258,532,000	+6,876,000	+31,276,000
Military construction, Defense Agencies	19,300,000	81,100,000	40,896,000	49,396,000	+30,096,000	−31,704,000	+8,500,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	0	0	0
Military construction, Army National Guard	62,700,000	47,200,000	61,128,000	61,128,000	−1,572,000	+13,928,000	0
Military construction, Air National Guard	63,000,000	27,600,000	37,200,000	37,200,000	−25,800,000	+9,600,000	0
Military construction, Army Reserve	50,300,000	47,000,000	53,804,000	53,804,000	+3,504,000	+6,804,000	0
Military construction, Naval Reserve	36,400,000	16,800,000	23,300,000	23,600,000	−12,800,000	+6,800,000	+300,000
Military construction, Air Force Reserve	18,000,000	10,000,000	10,773,000	10,773,000	−7,227,000	+773,000	0
Total, military construction	2,360,387,000	2,276,700,000	2,102,818,000	2,234,915,000	−125,472,000	−51,785,000	+132,097,000
Family housing, Defense	1,332,244,000	1,302,847,000	1,302,847,000	1,304,523,000	−27,721,000	+1,676,000	+1,676,000
Portion applied to debt reduction	−107,617,000	−112,547,000	−112,547,000	−112,547,000	−4,930,000	0	0
Subtotal, family housing	1,224,627,000	1,190,300,000	1,190,300,000	1,191,976,000	−32,651,000	+1,676,000	+1,676,000
Total, new budget (obligational) authority	3,585,014,000	3,467,000,000	3,293,118,000	3,426,891,000	−158,123,000	−40,109,000	+133,773,000

Mr. MANSFIELD. I take this occasion to thank our distinguished colleague, the Senator from Alaska, for his cooperation and understanding of the many problems which confronted the committee in its deliberations.

May I say, also, that special consideration should go to Mike Rexroad, the counsel for the committee, who did his usual good thorough job and for whose efforts the committee is deeply grateful.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

Mr. President, the distinguished chairman of our subcommittee, Mr. MANSFIELD, has provided us with an excellent summary of the fiscal year 1977 military construction bill as recommended by the Appropriations Committee.

While our recommendations are some $134 million over the House-passed bill, I feel that our actions can be readily justified. First, the House of Representatives did not have the benefit of the conference version of the authorization bill. Our colleagues of the Committee on Armed Services made a strong case for several unbudgeted projects which were approved by the authorization conference and for which we have provided the necessary funds. Additionally, we are not playing trading games with the House of Representatives. We have agreed with practically all of the House additions to the bill as those projects were strongly justified by our own analysis.

I understand that there will be a floor amendment to halt construction of the Uniformed Services University of the Health Sciences. There is no money for this project in this bill. In fact, the construction bids have come in some $14 million less than we have already appropriated. At this time, I will not go into all of the arguments in favor or this school, as I am sure they will be fully covered if and when the amendment is called up. I remind my colleagues, however, that the Senate has fully debated the merits of this institution on several occasions and always with the same result: This university is essential if we are to retain medical personnel in the military services. I am hopeful that the Senate will today reaffirm that position.

I express my appreciation to Senator MANSFIELD with whom I have been privileged to work. We will certainly miss his guidance next year when we work on this bill. I understand that this is also the last military construction bill for Mike Rexroad, the majority clerk. I am sure that I may speak for the other members of the Committee in commending him on the fine job he has done over the years and extend our wishes for the best of success in the future.

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

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

Mr. STEVENS. I am happy to yield.

Mr. YOUNG. Mr. President, this is a good bill, carefully considered by the chairman of the committee and the staff members. I fully support it.

Mr. President, I regret that this will be the last appropriations bill that the distinguished majority leader of the Senate, my very special friend, Mr. MANSFIELD, will be handling. He has so ably handled this bill as he has all questions in the Senate and everything he has done in the Senate. He fights effectively and tenaciously for the positions he takes and for all he believes. But there is never anything personal about it. When it is over, there is no ill feeling.

We need more people like MIKE MANSFIELD in the Senate, particularly handling appropriations bills. We deeply regret he is leaving us and this is the last bill he will handle.

I also want to commend Mike Rexroad, the staff member who will be leaving also. He is what I consider an ideal type of staff member. He is a real professional. I do not know if he is a Democal feelings. He is a real professional. He a Democratic appointment when the Democrats were in control. Maybe he is a Democrat. But I never knew his political feelings. He is a read professional. He knows the bill. He has saved the Government a vast sum of money by his hard work and keen knowledge of the bills he handles. He has made good sense in every bill he has ever handled.

Mike Rexroad has always been most helpful to all the Members of the Senate and particularly to the members of the Committee on Appropriations. After almost 28 years of Government service of which over 19 years were with the Senate, Mike has certainly earned his retirement. He will be missed and remembered by his friends here in the Senate for his straightforward and can-do spirit in handling the military construction bill.

I also point out that Mike also served his country with distinction during World War II and the Korean war. He remained in the Air Force Reserve after the Korean war and attained the rank of brigadier general.

I have the highest commendaton for him, not only as a Senate staff member but also his record in the military services and other things he has undertaken.

I know that everyone here joins me in wishing Mike Rexroad a happy and rewarding retirement as well as success in the future.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MANSFIELD. Mr. President, on behalf of Mike Rexroad and myself, I wish to thank the distinguished ranking Republican member of the Committee on Appropriations, my good friend "Mr. Wheat," the distinguished Senator from North Dakota, and also my distinguished associate in the conduct of the affairs of the subcommittee, the Senator from Alaska (Mr. STEVENS).

I shall make one more statement for the record and this has to do with the utilization of Fort Dix, N.J.

UTILIZATION OF FORT DIX, N.J.

Mr. President, I make a key point here—implementation of one station unit training at Fort Benning will not affect the utilization of Fort Dix, N.J. This is a point that the Secretary of the Army has continued to stress, but the issue has remained clouded and is the main argument used against implemen-

tation of one station unit training at Benning.

The Secretary of the Army has stated, and submitted in a fact sheet to my subcommittee, that the Army would continue to operate the Dix Army Training Center through fiscal year 1979 and, at the same time, is considering long-range utilization missions for Dix, including training.

Mr. President, the fact is that infantry one station unit training at Fort Benning will not affect Fort Dix since Dix trains recruits in lower density combat support military occupational specialties—MOS's—for which one station unit training is not feasible. No training that Dix does—for example, wheel vehicle maintenance, motor transport and food services—would be done at Fort Benning. Under the one station training concept, Benning will be the professional home of the infantry and conduct infantry training. The training of recruits in combat support MOS's will continue to be met by training centers at Forts Dix, Jackson, Knox and Leonard Wood.

Mr. President, I emphasize again—OSUT at Fort Benning will not close Fort Dix or impact on the training load there.

Mr. President, I ask unanimous consent that an information paper on the utilization of Fort Dix, N.J., and a letter from the Secretary of the Army, Mr. Hoffmann, directed to Senator NUNN, be printed in the RECORD.

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

INFORMATION PAPER

Subject: Utilization of Fort Dix, New Jersey

Purpose. To provide information on current plans for utilization of Fort Dix, N.J., when One Station Unit Training (OSUT) is implemented at Fort Benning, GA.

Facts.

1. Army plans for Fort Dix have not changed since the Secretary of the Army testified before the House Subcommittee on Military Construction Appropriations in September 1975. At that time the Secretary stated that the Army would continue to operate the Dix Army Training Center through Fiscal Year 1979. Should the training center then be closed, several alternative missions for Fort Dix are being considered, but no final decision as to Fort Dix's long range utilization has been made or is imminent.

2. Utilization of Fort Dix is not affected by implementation of OSUT at Fort Benning or elsewhere, since Fort Dix trains recruits in lower density combat support military occupational specialties (MOSS) for which OSUT is not feasible. The requirement to train recruits in these MOSs is currently met by training centers at Forts Dix, Jackson, Knox, Leonard Wood, Bliss and Gordon.

SECRETARY OF THE ARMY,
Washington, D.C., June 21, 1976.

Hon. SAM NUNN,
U.S. Senate,
Washington, D.C.

DEAR SAM: This responds to your 7 June letter concerning Army support of funding for a reception station and training facilities at Fort Benning in the FY 77 Military Construction Appropriations bill.

As you know, in my testimony last year before the Military Construction Subcommittee of the House Appropriations Committee, I indicated that the Army would conduct tests of the one-station and one-station unit training concepts. In consideration of those tests and the fact that the reception station would be needed only in the event we adopted the concepts at Fort Benning, I acknowledged that the reception station was of lower priority than the other facilities requested for Fort Benning in the FY 76 MCA program.

Our tests are now well along and we expect to report to the Congress on them by November of this year. The results to date are encouraging and we still support the concept of conducting infantry one-station unit training at Fort Benning. Both the reception station and the training facilities will be needed in order to conduct that training.

We have recently determined, however, that the reception station can be reduced in scope by deleting the dedicated barracks from the project, thus reducing its cost from the $10.953 million authorized in FY 76 to $6.9 million. The previously authorized but unfunded training facilities, at $2.661 million, would be needed in their entirety.

Although we are firmly committed to conducting advanced infantry training of our soldiers at Fort Benning and are now doing so, we will make no final decisions on the conduct of one-station unit training there until after completion of the current testing and subsequent evaluation. In that regard I note that you are proposing to seek funding of the reception station and training facilities on the condition that no construction take place until the one-station unit training tests are completed.

Your strong and loyal support of the Army as a whole and in particular your support of one-station unit training at Fort Benning is appreciated.

Sincerely,

MARTIN R. HOFFMANN.

Mr. FORD. Mr. President, I ask unanimous consent that Jane Matthias and James King of my staff be accorded the privilege of the floor during the debate and the consideration of this legislation.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and considered the original text without waiving points of order.

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

The amendments agreed to en bloc are as follows:

On page 2, line 7, strike "$571,565,000" and insert "$611,537,000";

On page 2, line 17, strike "$526,252,000" and insert "$578,301,000";

On page 3, line 1, strike "$777,900,000" and insert "$809,176,000";

On page 3, line 12, strike "$40,896,000" and insert "$49,396,000";

On page 3, beginning with line 21, strike the following:

That none of the funds appropriated under this paragraph may be expended for the cleanup of Enewetak Atoll until such time as the Secretary of Defense receives certification from appropriate administering authorities of the Trust Territory of the Pacific Islands that an agreement has been reached with the owners of the land of Enewetak Atoll or their duly constituted representatives that this appropriation shall constitute the total commitment of the Government of the United States for the cleanup of Enewetak Atoll.

And insert in lieu thereof:

That the Secretary of Defense shall obtain certification from appropriate administering authorities of the Trust Territory of the Pacific Islands that assurances have been received from the owners of the land of Enewetak Atoll or their duly constituted representatives that this appropriation shall constitute the total commitment of the Government of the United States for the cleanup of Enewetak Atoll.

All feasible economies should be realized in the accomplishment of this project, through the use of military forces, their subsistence, equipment, material, supplies and transportation, which have been funded for other programs supporting ongoing operations of the military services. Further, such support should be furnished without reimbursement from Military Construction funds.

On page 5, line 23, strike "$23,300,000" and insert "$23,600,000";

On page 6, line 15, strike "$1,302,847,000" and insert "$1,304,523,000";

On page 6, line 21, strike "$42,360,000" and insert "$34,410,000";

On page 6, line 23, strike "$44,665,000" and insert "$35,175,000";

On page 6, line 25, strike "$16,850,000" and insert "$10,966,000"; and

On page 7, line 5, strike "$1,040,200,000" and insert "$1,065,200,000".

AMENDMENT NO. 1953

Mr. FORD. Mr. President, I now call up amendment 1953 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) for himself, Mr. PROXMIRE, and Mr. BUCKLEY proposes amendment No. 1953.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . Funds appropriated under the hearing "MILITARY CONSTRUCTION, NAVY" in the Military Construction Appropriations Act, 1975, and in the Military Construction Appropriations Act, 1976, for the construction of the Uniformed Services University of the Health Sciences are hereby rescinded except for amounts necessary to terminate any contracts with respect to the construction of such university entered into prior to the date of enactment of this Act.

Mr. FORD. What is the time allotted to the Senator from Kentucky?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has 45 minutes.

Mr. STEVENS. Mr. President, parliamentary inquiry.

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

Mr. STEVENS. How much time is totally allotted on this amendment?

The ACTING PRESIDENT pro tempore. Initially 30 minutes. The Senator asked for and obtained an additional 30 minutes.

Mr. MANSFIELD. That was when the Senator from North Carolina was allowed 30 minutes.

Mr. STEVENS. So the total is 1½ hours.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. FORD. Mr. President, I shall make some remarks with reference to this amendment under those 30 minutes allotted to me outside of the bill.

There is no Senator in this Chamber who would not agree that it is imperative that the United States have the strongest defense establishment in the world, including the very best medical

personnel available to service it, but we all know the inefficient use of funds in any sector of our Armed Forces only weakens the entire establishment. As representatives of the American people we owe it to our constituents to spend precious tax dollars wisely.

This is why I rise today in opposition to the Uniformed Services University of the Health Sciences and have joined with Senator PROXMIRE in offering an amendment to deny further expenditure for it. I suggest to our distinguished colleagues that funds for the university be used instead for the expansion of the Armed Forces health professions scholarship program, the Department of Defense vehicle for educating military medical personnel.

As Senators know, Senator PROXMIRE and I have serious doubts about the university project. Last November we wrote to the Comptroller General requesting that the General Accounting Office undertake a thorough analysis of the university program in comparison with the scholarship program and other alternatives.

That study, available to Congress in May, showed that the scholarship program is more cost effective than the university.

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

Mr. FORD. I yield.

Mr. BEALL. Mr. President, I ask for the yeas and nays on this amendment.

Mr. PROXMIRE. Before we get the yeas and nays, we may want to modify this amendment. I would appreciate it if the Senator would withhold that request.

Mr. BEALL. I withhold the request.

Mr. PROXMIRE. We will request the yeas and nays later on. We may want to modify the amendment.

Mr. FORD. That study, available to the Congress in May, showed that the scholarship program is more cost effective than the University. In simple English, Mr. President, it costs the Uniformed Services University of the Health Sciences $150,000 more to educate one graduate than it does the scholarship program. I quote from the report:

> The educational cost per graduate of the scholarship program will be $36,784 as compared to $189,980 to educate a graduate of the University.

Furthermore, if you compare the two programs, the least expensive one produces the most medical school graduates. Current authorization allows DOD to have 5,000 students under scholarship at any time. About 72 percent of these scholarships have been made available to medical students, and DOD officials have estimated that the program will produce about 988 medical school graduates per year during fiscal year 1981 and beyond with the potential for providing 8,332 staff years of physician service.

In contrast, University officials estimate that the medical school will have an enrollment of 700 students in fiscal year 1984 and will be graduating classes of 175 students. As two of these are expected to serve in the public health service, only 173 will actually serve in the military medical corps, supplying 3,212 staff years of service.

Let me emphasize that in no way do I wish to deny our military sufficient medical care. If the Congress should decide to terminate the University program, there are three alternatives, identified by the GAO, which will provide the same number of staff years of physical service at, I might point out, the same or better levels of cost effectiveness, at that currently estimated for the combination of both the scholarship and the University programs in their first full years of operation.

Both programs operating concurrently in fiscal year 1984 are projected to provide 1,161 physicians to DOD and 11,544 staff years of service over a 30-year period—base figures for development of three alternatives.

One option is for the Department of Defense to administratively increase the initial active duty obligation of scholarship program participants. The necessary staff years of service could be obtained by increasing the estimated 988 scholarship program graduates' initial active duty obligations from 4 years to between 5 and 6 years. Although this would not provide the Nation with more physicians, it would provide the requisite number of staff years at no additional cost to the Nation's taxpayers beyond that of the scholarship program itself.

The second option is for DOD to fully sponsor those scholarship program participants who take civilian residency training. Permitting medical school graduates to remain on active duty while serving civilian residencies would subject them to increased active duty payback obligations. It would be necessary to increase the number of medical school scholarships by a total of 424 or 106 per year.

The third option is to increase the number of medical students in the scholarship program by 379 students annually. This alternative can be used not only to overcome the military's drain on physicians from the civilian sector's training spaces, but it can increase the overall number of physicians in the Nation. In other words, the use of the total funding needed to train the 175 graduates the University would produce at full operation could be used to train 379 physicians in civilian school—206 more doctors for our country. What more could we ask?

I ask unanimous consent that a table indicating Federal distress grant support from fiscal year 1972 to 1975 be printed in the RECORD.

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

Federal distress grant support from fiscal year 1972–75

Tulane University School of Medicine	$3,039,522
Xavier University School of Pharmacy	949,964
Total	3,989,486
St. Louis University School of Medicine	1,033,200
Creighton University School of Medicine	$1,637,392
University of Nebraska School of Dentistry	174,110
Creighton University School of Dentistry	684,708
Total	2,496,210
Meharry Medical College School of Medicine	3,346,170
Meharry Medical College School of Dentistry	3,121,938
Total	6,468,108
New York Medical College	1,062,000
New York University School of Dentistry	500,000
New York College of Podiatry	42,984
Columbia University School of Pharmacy	672,498
Total	2,277,482
Temple University School of Medicine	844,936
Temple University School of Dentistry	204,114
Pennsylvania College of Optometry	175,252
Pennsylvania College of Podiatry	1,279,319
University of Pennsylvania School of Veterinary Medicine	174,361
Total	2,677,982
Tufts University School of Dentistry	1,237,881
Massachusetts College of Optometry	611,649
Total	1,849,530
Fairleigh Dickinson University School of Dentistry	664,524
California College of Podiatry	350,300
Texas College of Osteopathic Medicine	700,131
West Virginia School of Osteopathic Medicine	68,211
Tuskegee Institute School of Veterinary Medicine	1,517,491
University of Nevada, Reno, School of Medicine	324,538

Mr. PASTORE. Mr. President, will the Senator yield for a question on that point, on my time?

Mr. FORD. I yield.

Mr. PASTORE. The Senator made much of the fact that there is an expansion that will provide for about 379 students. Is that what he said?

Mr. FORD. If the funds were used—only the funds to maintain the university those funds could provide 379 scholarships more than at present and produce 206 more doctors than the University would.

Mr. PASTORE. Two hundred and six more doctors. Is the Senator aware that each year we received from abroad, to become doctors—either in Italy, Mexico, or in Canada—6,600?

Mr. FORD. We send our students from this country?

Mr. PASTORE. Yes. We have 6,600 doctors who are educated abroad—for whom there is no room here in our own domestic medical schools. I thought I should bring out that fact.

Mr. FORD. I just want to tell the Senator that if he is trying to reduce foreign trained individuals, if we would take the money to maintain this university, then

we would have 206 more than the University would provide and it would give us almost 400 new doctors every year.

Mr. PASTORE. There is no room for them.

Mr. FORD. There would be, if the medical schools were expanded.

Mr. PASTORE. I do not mean to interrupt the Senator if he does not want me to.

Mr. FORD. It is perfectly all right. I like it.

Mr. PASTORE. I like it, too.

Mr. FORD. I know the Senator does, and I am afraid to yield to him.

Mr. PASTORE. I come from a very small State. I go home on a weekend, and almost anybody can knock on my door, on Saturday and Sunday. Continuously, I have fathers come to me with their sons. The sons have been trained and they are fine students, with high scores, in a pre-med course. They come into my living room and they cry because the son has applied to 15 domestic medical schools and there just is no room, and they cannot get in. The Senator cannot imagine the frustration.

Add to that the fact that each year, the military will take a certain number of them and give them a scholarship, which means that they are going to serve 4 years in the military establishment. And what are they doing? They are taking a seat in the classroom that could go to another qualified young man. That is what troubles me.

Now we say, "Let's give them more money." We just do not do it. If anybody can stand here and say that every qualified student in America, from a premedical school—I mean the finest in the country—has a place in a medical school, then I will vote for the Senator's amendment.

I just went through that the other day. A boy came to me from the University of Rhode Island. He had applied to about 7 medical schools. He is a high-ranking student. He has almost a perfect score, and he cannot get in.

Mr. FORD. Did the Senator say the young man could not get in a Rhode Island school?

Mr. PASTORE. No, no, he cannot get in a Rhode Island school. Brown will only take a handful from the State of Rhode Island. They have not fully established themselves yet. There is no room for them. I meet it every, every, every weekend when I go home. It is pathetic. It makes you cry. The kid comes into your room and says, "I want to go to medical school, I went to pre-med, I have a high score. Can you talk to the Italian Ambassador and see if I can go to the University of Bologna?"

Is that not a wonderful thing, for a U.S. Senator to talk to an Italian Ambassador to send that kid to the University of Bologna? I think it is crazy.

Mr. FORD. It may be crazy and the Senator can eliminate this craziness by using the funds that it would take to maintain a hospital and increase by 206 the students in this country to be educated in our medical facilities.

Mr. PASTORE. I would go for the 206 plus, plus this school.

Mr. FORD. 175 on top of that makes it 379, Senator.

Mr. PASTORE. I would take 500, 1,000. We need them.

Mr. FORD. I am trying to help. I have only been here 18 months, and I am trying my best to see that those funds are adequately spent.

Mr. PASTORE. That is right, that is the first responsibility I had when I came to the Senate, to put up some money for expansion. Does the Senator know what they did? They recommitted the bill.

Mr. FORD. As Governor, I funded two medical schools in Kentucky and I understand the problem very well. That is the reason I am so seriously interested in this problem, to educate those people that the Senator says come into his living room and cry because they cannot get into medical school.

Mr. PASTORE. That is right.

Mr. FORD. They are all over the country. What the Senator is going to do is make it 175 and that is all he is going to give, when he can give 379—that is the point I want the Senator to understand—and not use any construction money.

Mr. PASTORE. Does the Senator understand that 60 percent of the budget of any medical school is Federal money?

Mr. FORD. We are going to spend that much more.

Mr. PASTORE. No, we are not.

Mr. FORD. Yes, we are.

Mr. PASTORE. When the fellows add up the cost of this military school, they do not put that in So they raise a ridiculous figure.

Mr. MANSFIELD. Mr. President, I hope that not all of my time is being taken up, because we only have 15 minutes.

Mr. PASTORE. I have said all I want to say.

Mr. FORD. I remind the Senator if he would read this, he would get all the answers to what we are trying to do. I think it would be entirely clear.

Mr. BELLMON. Will the Senator yield on my time?

Mr. FORD. I have some extra time and I do not want to take any time away from the leader, because I know what he wants to say and I do not intend to dilute his ability to express himself. If the Senator from Oklahoma wants to yield on his time, I do not know what that is on.

Mr. MANSFIELD. Mr. President, I only have about 10 minutes altogether.

The ACTING PRESIDENT pro tempore. The Senator has 12 minutes remaining.

Mr. MANSFIELD. The Senator can ask him to yield for a question.

Mr. BELLMON. Will the Senator yield for a question?

Mr. FORD. Yes.

Mr. BELLMON. I am confused about the figures the Senator from Kentucky has used for the comparative costs of the university and the scholarship programs. I have a letter from the Comptroller General which points out that the Federal scholarship program is costing the Defense Department directly $21,444 per staff year, and when you add the contributions by other agencies such as HEW, they are contributing $10,624, so the total cost for a staff year is $32,068.

Also in the report, there is the figure of $6,063 charged for operating costs, half of it is for research. So when you take that out, the cost of this university program will be $23,000, which makes it appear that the university program is roughly $10,000 per staff year cheaper than the present scholarship program. Do those figures agree with the figures the Senator is using?

Mr. FORD. No sir. The only thing I can give to the Senator from Oklahoma is the report to the Congress by the Comptroller General: "Cost-Effectiveness Analysis of Two Military Physician Procurement Programs: The Scholarship Program and the University Program."

This report shows us very clearly that it approximates $150,000 more per graduate at the university.

Mr. BEALL. Will the Senator yield on that point for a question?

Mr. FORD. They only wanted 15 minutes to a side on this and we are going about 30 minutes. The Senator is going to get 30 minutes of the Senator from North Carolina on his side.

Mr. BEALL. I was going to follow up on the question asked by the Senator from Oklahoma. If the Senator from Kentucky is using the GAO study, if that is the basis for the conclusions he is reaching with regard to the cost effectiveness of this medical school, I think we ought to point out that this is a cost-effectiveness study and not a cost-benefit study. Is that correct?

Mr. FORD. That is correct.

Mr. BEALL. Does the GAO not also say in this study that they have not included in the cost effectiveness, when comparing scholarship versus the medical school program, the HEW and VA contributions to the private medical schools around the country in making this comparison? Is that not correct?

Mr. FORD. I understand that is correct.

Mr. BEALL. Therefore, the Senator's figures are not valid.

Mr. FORD. Yes, they are, because we are adding another school.

Mr. BEALL. We are adding another school, but the Senator is using the total cost of this school as compared to only a partial cost of educating medical students in private schools. In addition, it is my understanding that additional private medical schools will be created in the future and they would receive the Federal assistance.

Mr. FORD. Does the Senator from Maryland want to bring all medical facilities of the military in and lay them on top of this?

Mr. BEALL. No. If we are going to compare the cost of a military school to the cost of training a doctor in a private school, then we have to include all of the Federal contributions to the private school, and make it a cost; not just the direct assistance to students, but also the capitation grants, the research grants, and the project grants made to private medical schools, because this is every bit as much a Federal contribution as the

direct scholarship contribution to the schools.

Mr. FORD. Let me give GAO's response to that—

> We excluded from the analysis, nonscholarship related Federal funding such as research grants provided to medical schools by various Federal agencies. Such funding is made available to civilian school for reasons totally unrelated to the scholarship program and will continue regardless of whether the program continues or not.

Mr. BEALL. I have to take issue with that. There are reasons closely related to the scholarship program. The reason is we must assume stability in medical education and because medical schools are natural resources. We are going to have a health manpower bill come to the floor next week, in which we are asking for a continued Federal contribution to these medical schools, and are imposing certain conditioning so we can try to alleviate a very serious health manpower distribution problems that exists in the country. I do not think we can make a valid comparison without including these costs——

Mr. FORD. The research grants can be in several fields, I say to the Senator. They should not be applied to this scholarship program. I think the Senator is trying to make the figures somewhat different. This is what we find here all the time.

Before I arrived in this Chamber, Congress set up a Health Manpower Commission. The Senator ought to read that report. Theirs is more harsh against the military medical school program than the GAO study. They are the ones who say it is not needed, since we can perform a better service through civilian schools than they can. They even go so far as to say you can construct a building, let it remain vacant, and the taxpayers of this country would be much better off if we would take those funds and rely on the scholarship program.

I understand what it might mean to the State of Maryland, but I also know what it might mean to 114 medical schools across the country. We are not talking about just one school in a State; we are talking about 114 medical schools across this country.

Mr. BEALL. That is what we are talking about in our health manpower bill that is coming to the floor next week, not only the needs of the medical schools, but the needs of the American public. We cannot impose additional burdens on the medical schools to the ones that we have imposed already in meeting civilian needs.

Mr. FORD. Let me say to the Senator from Maryland, and then I am going to reserve the remainder of my time, because I would like to have a little time to rebut other arguments that might arise, and I shall yield to my colleague from Wisconsin if he has some comments to make: I do not believe that the Senator understands the ratio of doctors per hundred thousand population. Our problem becomes not the ratio of doctors to population, but the distribution of doctors in this country. The distribution of doctors has now been concentrated. I went through that problem, trying to have a licensing board say that hospitals will be built out where the people are instead of concentrated in the core of the cities, and adding another wing for Dr. Jones or Dr. Smith or whoever it might be.

We have to get the hospitals and the doctors out in the rural areas where the people are and where they do not have the medical facilities.

Mr. President, I am going to reserve the remainder of my time.

Mr. YOUNG. Will the Senator yield about 3 or 4 minutes?

Mr. MANSFIELD. Yes; I yield.

Mr. YOUNG. Mr. President, we have a severe shortage of medical schools in the United States right now. My own State of North Dakota, with only about 640,000 population, in order to get doctors, had to start their own 4 year medical school, a costly thing, but we are desperately in need of doctors. My home county does not have a doctor. The military services have a sizable requirement for doctors who have to be educated in medical schools all over the United States at sizable cost. If we have this one military medical school, at least we relieve some of the pressure on civilian medical schools.

During the discussion and debate on the matter of the Uniformed Services University many facts and figures have been thrown around. If one takes a brief moment to study the facts they are quite simple and straight forward.

For example, using the General Accounting Office report on the university as the authority, the cost to the Department of Defense of a scholarship graduate is $21,444 and $26,236 for the University graduate. Such figures as $36,784 for the scholarship program and $189,980 for the university have been referred to. These figures reflect estimated educational costs. GAO says that is not a valid basis on which to analyze and compare the programs. The primary unit of measurement is the estimated cost per staff year of service from graduates of each of the programs. According to GAO on this basis there is a 22.3 percent cost differential.

Other figures I have heard refer to the construction costs. In this regard $280 million, $200 million, $150 million, and $100 million have been mentioned. The fact of the matter is that Congress has previously authorized and appropriated a total of $79.9 million to build a complete medical school. However, you will find it interesting that this program is experiencing a cost underrun. Rather unique. The current working estimates for total construction of building, roads, everything, is $64.8 million.

If the university program were stopped today it is estimated that termination costs would be between $25 million and $45 million. That would hardly be a cost effective move.

Costs are an important part of the analysis of any program. We are certainly interested in costs. The university has reflected its concern for costs as demonstrated by their attempts to construct this school for a reasonable amount of money.

But even those who wish to terminate this program recognize that there are benefits to be derived from the establishment of this school which must be considered.

The establishment of the medical school, in addition to providing the military with the nucleus of career-oriented medical officers, will assist with the retention of physicians by granting academic and professional recognition for significant accomplishments and by providing an opportunity to those doctors on active duty to pursue academic medicine. Each year the military services lose many outstanding physicians because both these elements are absent from the present military medical program.

The graduate of the uniformed services university will be an expert in military medical problems such as the diagnosis and treatment of exotic diseases peculiar to areas outside the United States to which troops may be deployed. They will be able to handle mass casualties and medical problems resulting from hostile action. They will be trained in logistics and rapid deployment.

These are but a few of the specialized areas of study which students attending this school will undertake. None of this is taught in civilian medical schools for they train physicians for the civilian sector which is their purpose.

The military does have unique medical needs which this university can best teach.

The university will be able to easily undertake model studies in health education and health care delivery systems because of the controlled environment in which it will operate. Also, this school will serve as a repository of knowledge on worldwide medical problems making this a national health resource much like the National Institutes of Health and existing military medical institutes such as the Armed Forces Institute of Pathology.

We cannot gloss over these aspects of the university program. In referring to the benefits to be derived from the establishment of this medical school the GAO said:

> These are important concerns which must be considered along with the program's cost effectiveness.

As was properly stated during last year's hearings on this program, costs are important but not decisive.

A serious, objective appraisal of this program will lead one to the conclusion that this is not the monster some have portrayed it to be. Rather, that this is a reasonable, necessary program which the Congress has committed itself to.

I strongly support the uniformed services university and recommend that the amendment be defeated.

Mr. BELLMON. Mr. President, will the Senator yield me 1 minute? Mr. President, I ask unanimous consent that a letter from the Honorable MELVIN PRICE to Elmer Staats, Comptroller General of the United States, and the reply be printed in the RECORD at this point.

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

COMMITTEE ON ARMED SERVICES,
Washington, D.C., April 27, 1976.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: As you are aware, there has been considerable debate in the Congress concerning the economic aspects of training physicians for military service through either the military scholarship program at private medical schools or providing such training through the totally Federally funded institution, the Uniformed Services University of the Health Sciences.

Unfortunately, in the course of the debate there has been considerable distortion of these alleged costs because of the failure, in my judgment, to include all of the Federal costs involved. Also in establishing the end benefit to our Federal taxpayers, these costs necessarily must be amortized over the period of actual or anticipated service that will be rendered to the taxpayers by the individual physicians.

In light of these circumstances, I am requesting that your office undertake a thorough and comprehensive study to determine the actual Federal cost and the benefit ratio which results from the training of military physicians through the two sources which I have previously outlined, the scholarship program as compared to the actual training at the Federal medical school—the Uniformed Services University of the Health Sciences.

Obviously, the direct cost of training a physician at the Uniformed Services University of the Health Sciences is readily ascertainable as well as a determination of the cost/benefit ratio that will result from the graduate physician's anticipated period of obligated service. On the other hand, the cost/benefit ratio of the training provided through the scholarship program is much more difficult of assessment. This difficulty arises from the necessity of ascertaining the amount of actual financial aid which is provided these private medical schools through the various agencies, such as the Department of Health, Education, and Welfare, the Veterans Administration, and the Department of Defense. Federal assistance and financial support is given in a variety of forms, including capitation grants, research grants, scholarships, faculty support during the year, as well as construction funds for private medical schools. Moreover, we can not ignore the tax revenues which are directly lost by virtue of permitting a total tax write-off for financial support provided private medical institutions from private sources.

The study, to be meaningful, ought to cover a period of not less than five years, and preferably the period from 1970 through 1975.

It would be helpful if the results of your study could be made available to the Committee as soon as possible, but no later than September 1, 1976.

In the event you have any questions concerning this matter, please feel free to call me or the Chief Counsel of the Committee, Mr. Frank Slatinshek.

Sincerely,

MELVIN PRICE,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., June 15, 1976.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your April 27, 1976, request for information on the total Federal costs involved in training physicians through the Armed Forces Health Professions Scholarship Program. As discussed with your office, we based our work on (1) information contained in a January 1974 report, "Costs of Education in the Health Professions," prepared by the National Academy of Sciences' Institute of Medicine and (2) data obtained from the Department of Health, Educaton, and Welfare (HEW) and the Veterans Administration (VA) regarding Federal grants provided to medical schools. HEW and VA provide most of the Federal subsidies to civilian medical schools.

OUR COST-EFFECTIVENESS REPORT

On May 5, 1976, we issued a report entitled "Cost-Effectiveness Analysis of Two Military Physician Procurement Programs: The Scholarship Program and The University Program" (MWD-76-122). We used a cost-effectiveness analysis to show the incremental costs expected to be incurred by the Department of Defense in fiscal year 1984—the first year of simultaneous full operation of both military physician procurement programs. Our analysis showed that the costs (including anticipated pay and retirement costs) per staff-year of expected physician services from an estimated 988 graduates of the Scholarship Program would be $21,444, compared to $26,236 per staff-year of service expected from the anticipated 173 graduates of the University program who will be supplying services to the Department.

In our analysis, we included as incremental costs associated with the Scholarship Program estimates of (1) the stipends to be paid by the Department to Scholarship Program participants, (2) the Department's payment of Scholarship Program-related medical tuition and fees to civilian medical schools, and (3) the Department's costs to administer the Scholarship Program. We excluded from the analysis, non-Scholarship-Program-related Federal funding (such as Federal capitation and research grants) provided to medical schools by various Federal agencies. Such funding is made available to civilian schools for reasons totally unrelated to the Scholarship Program and will continue regardless of whether the Program continues.

Cost-effectiveness analysis is particularly appropriate in a study which involves choosing one alternative over another to accomplish an objective. A cost-effectiveness analysis permits those making a choice between alternatives to (1) specifically address the future uses of resources since past expenditures are viewed as being outside the decisionmaking process and (2) consider only those potential costs directly attributable to each alternative.

FEDERAL FUNDING DIRECTLY ATTRIBUTABLE TO PHYSICIAN EDUCATION

Your office asked us to determine how much the Scholarship Program costs, presented in our May 5, 1976, report, would be increased by including non-Scholarship-Program-related Federal funds provided to civilian schools for educating physicians.

Based on data contained in a January 1974 report entitled, "Costs of Education in the Health Professions," prepared by the Institute of Medicine, we calculated the estimated amount of Federal funding to civilian medical schools which was spent on educating physicians. The Institute's study was prepared, under a contract with HEW, pursuant to the provisions of section 205 of Public Law 92-157. The study's objective was to provide information to the Congress on the national average annual education costs per student in eight health professions, including the medical profession.

The Institute reported that, at the 14 medical schools included in its sample, the average education costs per student amounted to about $12,650 for the 1972-73 academic year. Using detailed data contained in the report, we calculated that the Federal Government provided about $4,900—about 39 percent—of the $12,650 to support the education of each medical student in the civilian schools. An Institute official reviewed this calculation and told us that the $4,900 per student figure was an appropriate estimate.

Including non-Scholarship-Program-related Federal funding for medical schools' educational activities as part of the Program costs requires that the $4,900 figure be inflated to reflect fiscal year 1977 dollar values. Using an inflation rate of 8 percent per year,[1] annual Federal support provided to civilian schools for their educational activities amounts to $6,666 per student per year in fiscal year 1977 dollar terms or $26,664 per graduate (assuming a 4-year medical education). If this additional funding were expressed in terms of cost per expected staff-year of service by a Scholarship Program graduate, the resulting additional cost in fiscal year 1984, stated in fiscal year 1977 dollar terms, would be $3,162 per staff-year. Accordingly, the total cost per staff-year of service under the Scholarship Program would be as follows:

Defense Department cost	$21,444
Other Federal funding attributable to physician education	3,162
Total cost per staff-year	24,606

TOTAL FEDERAL FUNDING TO MEDICAL SCHOOLS

Your office also asked that we determine how much the Scholarship Program costs, presented in our May 5, 1976, report, would be increased by adding the Federal Government's total contribution to medical schools. Your office has expressed the view that these costs should be attributed to the Department's Scholarship Program, since civilian medical schools require this Federal support to continue their operations.

Information obtained from HEW's Bureau of Health Manpower and National Institutes of Health and VA showed that the Government provided about $1.038 billion to medical schools in fiscal year 1975. This support was provided in several forms such as capitation, construction, and research grants. About 84 percent of the $1.038 billion—or $874.5 million—was provided to medical schools for research, including research facilities. Based on the Institute of Medicine study (see p. 2), only about 13 percent of this research money—or $115 million—would be directly associated with the education of physicians.

Information compiled by the American Medical Association showed that, for the 1974-75 academic year, 54,074 students were enrolled in medical schools. Dividing $1.038 billion by the student enrollment yields a 1975 Federal contribution of $19,203 per student. When this figure is inflated at the 8-percent rate, the Federal contribution per student becomes $22,398, as expressed in fiscal year 1977 dollar terms, or $89,592 per graduate (again assuming a 4-year medical education).

If these costs are viewed as attributable to the Department's Scholarship Program, the Program's costs would be increased by $10,624 for each staff-year of military service expected from the 988 program graduates. Thus, the total cost per staff-year of service under the Scholarship Program would be as follows:

Defense Department cost	$21,444
Contributions by other Federal agencies	10,624
Total cost per staff-year	32,068

As pointed out in our May 5, 1976, report, including as Scholarship Program costs such estimates as discussed above—$3,162 and $10,624—would not be appropriate when the Department's two physician procurement programs are being compared from an incremental-cost viewpoint. Adding either of these estimates to the Scholarship Program's incremental costs (estimated in our report to

[1] The 8-percent inflation rate was suggested by the Institute of Medicine official who directed the study.

be $21,444 per staff-year) results in an estimate of the total Federal costs attributable to the training of a Program participant to become a physician.

The results of such additions to our $21,444 estimate do not represent figures which are comparable to the incremental costs estimated in our report as attributable to the operation of the University Program ($26,236). Such a comparison would involve relating estimated total Federal costs of the Scholarship Program to the estimated incremental costs of the University Program. Additional costs—such as the use of staff and facilities at nearby military medical institutions to provide support to the University Program—would have to be included with the incremental costs estimated for the University Program to provide any basis for comparing the Federal costs of the two programs. To our knowledge, no attempt has been made to determine what these additional costs would be.

We trust that this information will help the Committee in its further considerations regarding the Department's two principal physician procurement programs.

Sincerely yours,

R. F. KELLER.
Acting Comptroller General of the United States.

Mr. BELLMON. Mr. President, as a member of the Appropriations Subcommittee on Military Construction, I am familiar with need for the Uniformed Services University of the Health Sciences. There is a severe shortage in the number of physicians for the armed services. The purpose of the uniformed services university is to train physicians who know medicine as it relates to the needs of the military and who will stay in the armed services. Some Members consider this to be in conflict with the scholarship program which already exists for the purpose of procuring physicians for the armed services. In my opinion, these two programs are complementary, and together will be most beneficial in alleviating the chronic military physician shortage. This is precisely the intent Congress had in mind when the university was authorized in 1972.

As I am sure most Members are aware, the Congress has appropriated $79.9 million over the past 2 fiscal years for the university. This is the total amount needed to construct the medical school. The construction of increment I is 50 percent complete, and work on increment II has already begun. In addition, seven department chairmen and numerous faculty appointments have been made and announced. The university has received over 1,700 applications for admission to the first class which will begin this fall, and from these applications, 24 students have been accepted. It is my understanding that within 5 years the university will enroll 175 students for each entering class. In short, much work has been accomplished by the university, and it is inconceivable to me for the Senate to consider terminating further activity related to the uniformed services university. The funds which have been appropriated for the university over the past 2 fiscal years have been obligated for the purpose in which they were intended; namely, to construct a medical school so that physicians could be trained for service in the armed services. It would be wasteful for the Congress to initiate action at this time to terminate the activities of the uniformed services university.

Mr. President, the basic controversy with this medical school centers on a General Accounting Office report which assessed the cost effectiveness to the Department of Defense of the university as opposed to the scholarship program. While this report indicates a 22.3 percent cost differential to the Department of Defense between the scholarship program and the university, the GAO's primary unit of measurement was the estimated cost per staff year of expected service from graduates of each program. Such items as grants from HEW and the Veterans Administration for construction, capitation, research, and faculty support were not considered in the GAO report, and when all these items are considered, the cost to the American taxpayer is virtually the same for both the university and the scholarship program.

Therefore, Mr. President, in view of the funds which have already been expended for the university, the work which has been accomplished by the school in preparing for the first entering class, and the fact that the cost effectiveness between the university and the scholarship program are essentially on par, I would encourage the members of this body to reject any proposal which would alter the course of the Uniform Services University.

Mr. MANSFIELD. Mr. President, how much time do I have left?

The ACTING PRESIDENT pro tempore. The Senator has 10 minutes. Who yields time?

Mr. MORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is assigned 30 minutes. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, the most baffling issue I have confronted on the floor of the Senate in the short period of time I have been here is this effort, and the one that was made last year, to eliminate what I believe is one of the most critical agencies of our Government, and that is the medical school that was established after many, many years of hard work to try to help and alleviate the shortage of doctors in America.

I did not hear all of the argument of my distinguished friend, the Senator from Kentucky, about the cost of this matter. To be perfectly candid, Mr. President, I do not care about the cost of this matter. That is not to say that I am not concerned about fiscal responsibility. But when in this Senate each year we spend $400 billion, we can afford to spend whatever it takes to train doctors to take care of the people in this country.

My distinguished colleague from Rhode Island has already pointed out more eloquently than I could ever do the need for doctors and the need for a place for training doctors.

Mr. President, I have been making this fight for 13 years. I have been answering the same argument that has been made by the distinguished Senator from Kentucky for 13 years. It is the same one that is put by the AMA and the Medical Accreditation Council. They say we can do better in the present medical schools. But they never do. They never do it unless they are forced to do it.

When we started trying to establish a new medical school in North Carolina we were opposed by the University of North Carolina. They said, "Oh, we can do it." But they had had 65 students in their freshman class for 10 years and had not increased by it one single doctor, even though they should have known better than anyone else under the sun the critical need for doctors.

But when it looks like we might establish another medical school, then they began to increase a little bit. This is typical of the fight. Many years ago the University of North Carolina had a 2-year medical school, and Wake Forest University had one. Then Duke University came along and got all of the Duke money, and they decided they would create a medical school. For year after year after year the two existing medical schools opposed the creation of a medical school at Duke. But after about 10 years Duke finally came around and got its medical school.

Then a few years later we decided in the legislature that we would make the University of North Carolina a 4-year medical school. Lo and behold, Duke turned around and fought the University of North Carolina.

If there is a monopoly in this country it is the one that exists between the AMA and the accreditation agency which is appointed by the AMA and medical schools.

Mr. PASTORE. Mr. President, will the Senator yield to me on that point for a short observation?

Mr. MORGAN. I would be happy to yield.

Mr. PASTORE. A relative of mine—now, this only happened recently—called up her doctor to make an appointment to be seen by the doctor. She called in May. Do you know what the receptionist told her? "The doctor has no open appointment until next September." Well, by that time she could have been in a casket. There you are. I thought I should bring that out. [Laughter.]

Mr. MORGAN. I am glad the distinguished Senator did because I have a consultant on my staff who is on leave from the university who is suffering from extreme migraine headaches, and he was just not getting any relief.

I went down to Dr. Cary here in the Capitol and I asked him if he would recommend a doctor for him who knew something about this problem. He did, one out at Georgetown, but it was 6 weeks before that doctor would see him and, in the meantime, that many sat in my office just in terrible pain and agony. That is typical of them.

My father-in-law died in a hospital 50 miles away from home with a terminal illness. He wanted to be at home, the family wanted him to be at home, but there was not a doctor within 25 miles who could be there or could see him to relieve him of any pain and suffering.

We talk about the cost of a medical school? We had a $350 million amendment to some little bill this week which was passed in 10 minutes of debate.

Mr. President, half of the doctors treating the mental patients in North Carolina today are foreign-trained doctors. It is a disgrace to this Nation that we lock up the people suffering from mental illness in mental hospitals, where they have no freedom of choice, they cannot walk down the street and change doctors, if they can find someone who can see them. We lock them up, and the medical society in my State and in any State says to the foreign doctors, "Yes, you come on in. You are not competent to engage in general practice in competition with the rest of the doctors, but you are competent to treat these mentally ill patients who cannot help themselves, who have no freedom of choice, who cannot communicate with you because of language barriers." How cruel can we be?

You say the services medical school is not going to alleviate the shortage. Of course, they are going to go into the services. But if you fill those places with doctors trained in this medical school, then you are going to leave some places in the other medical schools for local practitioners to be trained.

The Senator talks about the costs. Do you know what a doctor with 2 years in the Navy or one of the services makes today? $28,000 a year. There are doctors in the U.S. Armed Forces today, if I am not badly mistaken, who are making more than the Secretary of Defense. Do you know why we are paying them that? We are paying them that because we cannot get anybody to go there and do it. It is the old law of supply and demand.

We talk about our fears of national health insurance, and I share those fears. I do not believe that medicaid and medicare are working as effectively as they could. The ones who are opposing national health insurance most are the doctors of this country. Yet I have not seen where a half-dozen doctors are supporting the creation of new medical schools.

On the other hand, every medical society that I know of, the AMA and all, are opposed to the creation of new positions in medical schools.

Even the North Carolina Medical Society last year, after the medical school at East Carolina University had been created after 13 years of controversy, came within just four or five votes of abolishing or going on record for destroying that medical school, just as this Senate is about to do now.

Mr. President, I have voted as conservatively as any man on this side of the aisle with regard to expenditures in the Senate.

But there are some things you cannot afford to cut out, and one is the training of our young people who will provide for the care and health of our people. The demand is not going to grow less, it is going to grow more and more and more. Even if the need was not there, I believe any young man or young woman in this country who grows up with the dream of being a doctor and rendering service to mankind ought to have that opportunity, and regardless of the costs I am willing to pay them.

I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, the issue contained in this amendment jointly sponsored by the Senator from Kentucky (Mr. FORD), the Senator from New York (Mr. BUCKLEY) and myself is very simple.

Do we let our civilian medical schools provide medical physicians for our civilian and defense needs or do we turn to the Federal Government at a much higher price?

This is the choice between the scholarship program approved by Congress and the new Uniformed Services University of the Health Sciences. The scholarship program takes military personnel and places them in our civilian medical schools throughout the country where they receive the best training in the world and then go back to their military services to serve their country.

The university is an $80 million facility now just in the very initial stages of construction. It will train military personnel as physicians for military duties.

Do we let our existing medical schools continue to train our military doctors or should we go out and spend $80 million building a training facility for the military?

That is the question.

Luckily we have some answers to this complex issue.

The first thing to ask is which can do the better job? Here there is little dispute for our Nation's medical facilities are the finest in the world. They study and teach at the highest professional levels obtained anywhere. Will the military university be any better? It is hard to believe that it will be better although it might be as good. The argument of the university supporters is that this uniquely military facility will concentrate on uniquely military medical problems. To this I would answer that there is no such thing as a uniquely military medical problem. Our civilian schools study the same exotic diseases of the world that the university would examine. And after all, the subject matter is the same—human well-being—whether in uniform or out of uniform.

COST EFFECTIVENESS

The second question is which is the better value for the taxpayers? Here there is abundant evidence.

In 1974 the Senate established the Defense Manpower Commission to review military manpower issues and report back to the Congress where savings could be made and efficiency improved.

This Commission has now completed its work. One of its major conclusions deals with the university program.

The Commission states:

> Notwithstanding the minimal start-up expenditures that have already been made, the Commission recommends that the Uniformed Services University of the Health Sciences approach be terminated.

After 2 years of study and 38 pages of detailed analysis the Commission that the Senate established to tell us where to save money has told us to terminate the university program.

Last year the House Appropriations Committee asked the surveys and investigations staff to examine the relative merits of the scholarship program versus the university. This staff report concluded that the scholarship program was far cheaper than the university program. The House report provided termination costs so that proposals could be made to close down the university.

And finally there is the report by the Comptroller General on your desks. This is the most exhaustive study of the university and scholarship programs to date. The Comptroller General concluded that—

> In our opinion . . . the scholarship program is a more cost-effective method of procuring and retaining medical professionals than the university.

Now I ask my colleagues—on what basis should we make economic decisions when taxpayer funds are at stake? Should we consider unquantifiable items—those things which cannot be priced and for which there are no answers, or should we make a decision based on the least costly, most effective alternatives?

I think the answer is obvious. Just as obvious as the hard-hitting conclusions of the Comptroller General. He has told us that the university is between 22 and 400 percent more expensive than the scholarship program. The GAO examined the cost ratios from three different perspectives—thus the difference in the percentages. In each case, the university was more costly for the same effectiveness.

WHY NOW?

Now the question may be raised as to why we are bringing this amendment to the attention of the Senate at this time. We do so now for two reasons: First, this is the last clear opportunity to save millions of dollars for the taxpayers. Second, this is the first time that we have had the detailed, sophisticated information comparing the university and the scholarship programs. In the words of the Comptroller General:

> On no occasion was the Congress given an analysis which identified and compared the *potential total costs* involved in both procuring medical professionals through each program and then retaining some of these individuals for various periods, taking into consideration their service payback obligations.

Thus for the first time we have an honest comparison of the costs and alternatives and the conclusion is clear. We should proceed by augmenting the scholarship program and by stopping the university program.

FULL COSTING

As for the argument that the GAO did not include all Federal costs in this analysis, the answer is—that is absolutely correct—they did not. To do so would be entirely unsound. Why? Because the Federal subsidies to the civilian medical schools have been provided in the past and will be provided in the future regardless of the existence of the scholarship program. These subsidies are completely independent of the scholarship program. Therefore they are totally unallowable for purposes of comparing cost effectiveness.

The Comptroller General has made this very clear. He has said:

> Such funding is made available to civilian schools for reasons totally unrelated to the

scholarship program and will continue regardless of whether the Program continues.

The Defense Manpower Commission has stated:

Inclusion of these subsidies is inappropriate because they are independent of the existence of either the University or the Scholarship program.

FUNDING INVOLVED

How much money is involved?

Starting from the ground up, the GAO report indicates the university will cost $150,000 more per graduate than the scholarships to educate its military physicians. This is the 400 percent difference referred to earlier.

Congress has appropriated $15 million for the university in fiscal year 1975 and $64.9 million in fiscal year 1976 for a total of $79.9 million.

The operating costs of the university will be about $21.6 million a year.

This amendment would deny all prior appropriations for the university except for appropriate termination costs.

Construction of the University is designed in two phases. 35 percent of the first phase is complete with $3.9 million spent as of June 23, 1976, according to the Department of Defense Comptrollers Office. The second phase is only 2 percent complete and $1.3 million has been spent. Therefore, as of today, only $5.2 million has been spent; $56.2 million has been obligated to the program. This latter figure should not be confused with expenditures. As with any rescission, all obligated funds are subject to retrieval by the Government in the negotiating process. When we passed the rescission for the F-111's last year, the Government was able to retrieve 80 percent of all obligated funds.

At most, and I stress at most, Mr. President, full termination costs would be $25 million.

It is interesting to note that this amount of money would be saved from 1 year's operating cost of the university. Furthermore, it is likely that the rudimentary building already under construction would be used at the Bethesda Naval Medical Center which has a multimillion-dollar construction program underway and is crying for more space. Therefore even the phase 1 facility, which could be completed with the termination costs, would be of value to the Navy and its construction costs not lost.

This calculation, based on Defense Department data, indicates that this amendment would save the taxpayers of this country about $55 million not counting the savings from using the phase 1 building for other purposes.

A saving of $55 million without any adverse effect on defense medical requirements. A savings that could be passed on to the taxpayers.

Mr. President, let us look at the facts. The Defense Manpower Commission, the House Surveys and investigations staff report, and the Comptroller General have all told us that the university is not cost-effective compared to the scholarship program.

Today we can take action which will save the taxpayers at least $55 million net savings after termination costs and then an additional $21 million in operating costs for the university each year.

We have a choice—a choice to pick a cheaper alternative based on our civilian medical schools and nongovernmental education or another Government program costing up to 400 percent more. If we start here today with a military university, what will tomorrow bring? Will we have Government-paid-for universities for dentists, nurses, veterinarians, lawyers? Why should the Government be brought totally into the health professions business when we can handle the problem through our civilian medical facilities at a far cheaper cost?

Mr. President, I urge acceptance of this amendment.

I found out, unfortunately, that this amendment is going to be taken down by a point of order.

I simply wish to point out there is much to what the Senator from North Carolina said to which I can agree.

We need more doctors—there is no question about it. We will need many more in the future.

Nevertheless, Mr. President, I think, regardless of how badly we need to achieve a national goal, we have to consider the cost of that.

Every study that has been made, the study by the GAO, the study by the Defense Manpower Commission, the study by the surveys and investigation staff of the House Appropriations Committee, all said that this is not the way to do it. It is far more expensive.

In fact, one part of the GAO study found it would be 400 percent more expensive to train doctors this way.

Nevertheless, Mr. President, the Senator from Alaska is going to make a point of order which is, of course, his right. I have talked with the Parliamentarian and he is going to sustain this point of order.

The reason, I understand, is that the money for the Armed Services Medical University is not in the bill; it is in previous appropriations.

The rules provide that the Appropriations Committee can rescind previous appropriations. However, the rule also provides that an amendment from the floor, as I understand it, cannot achieve that. It has to be done in the Appropriations Committee.

For that reason, although we misunderstood the situation before and thought this was in order, we were misinformed. As I understand it, the point of order by the Senator from Alaska will be sustained.

So I see no reason to prolong the debate under these circumstances. If the Senator from Alaska wants to make his point of order now, that will finish the debate as far as I am concerned.

Mr. MANSFIELD. Will the Senator withhold for a minute?

Mr. President, I ask unanimous consent on my time that an excerpt from the report on the pending bill, page 50, entitled "Uniformed Services University of the Health Sciences" be printed in the RECORD.

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

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

For the Uniformed Services University of the Health Sciences at Bethesda, Maryland, the Navy withdrew its request of $9,851,000 since sufficient space may be provided under the first two phases to satisfy present requirements for a medical school.

Bids received on the second increment in March 1976 were very competitive. The current working estimate for the second increment is $53.3 million, which is a savings of approximately $11.6 million from the $64.9 million appropriated for this project. The total cost of the first and second increments is estimated to be $64.3 million, which is $15.6 million less than the amount appropriated.

The deferral of the fiscal year 1977 project was unanimously approved by the University Board of Regents and the Deputy Secretary of Defense.

An orderly, well-conceived plan which will optimally meet the requirements of the additional schools is being developed. The outcome of this effort will be reflected, in part, in the University's request for funds for construction of the third increment, which can be expected to be presented for consideration to Congress within the next 2 years.

Mr. MANSFIELD. Mr. President, I rise in opposition to the amendment.

My reasons for opposing the amendment and supporting the program of the uniformed services university are based on several factors.

First, I believe the cost differential of 22.3 percent between the university and the scholarship program is not an unreasonable amount.

Second, if one considers the benefits to be accrued from the establishment of this school along with its costs and compare it to the scholarship program, the cost benefit is strongly in favor of the university.

Third, if the total Federal costs of the two programs is entered into the analysis, the university again looks better.

Fourth, the alternatives suggested, but not recommended, by the GAO are, in my opinion, neither reasonable nor feasible.

This is a very important aspect which has been often overlooked in this debate. What are the alternatives to the university? And what are their cost benefits as well as cost effectiveness?

The cost benefits of the alternatives are zero. The cost effectiveness is questionable.

Let us consider the first suggested alternative: Expand the scholarship program. Even with the scholarship program producing 1,000 physicians annually, the doctor's bonus assisting to retain doctors, volunteers from the civilian sector, many of whom are fed up with malpractice problems and have sought refuge in the military—and can be expected to return to civilian practice when the problem is solved—and the university producing 175 physicians per year, the military still anticipates a modest doctor shortage. It can be expected that the scholarship program will be increased even with the university in existence.

But beyond this and more to the point, an increase in the number of scholarship participants would draw additional physicians away from the civilian and into the military. This proposal does not increase the number of physicians produced. What we are doing is redistributing a resource which at present is limited.

To increase the present capacity to train doctors would require additional

facilities and faculty. In all likelihood the Federal Government would assume at least half the cost inasmuch as that is presently the case. Then the questions arise, do we expand existing medical schools and if so which ones or do we build new ones?

Those who would argue that we already have enough physicians overlook two facts: The heavy reliance on foreign medical graduates and 10 new medical schools, in addition to the uniformed services university, are being planned which will receive substantial amounts of Federal support.

The second alternative of fully sponsored civilian training for scholarship participants will provide the military with a doctor who will not remain for a career. It has been the experience of the military that a physician who receives total civilian training, between 1 and 2 percent remain for a career. Exposure to military medicine sometime, preferably at the onset of training, is requisite if there is to be a career medical corps.

The third alternative of increasing the initial active duty obligation of the scholarship participant makes the program totally unequitable with the National Health Service scholarship program which has a 4-year obligation and greated financial emoluments. The quantity and quality of students applying for Armed Forces health professions scholarships is questionable under such circumstances.

In addition to the reasonableness of costs and the benefits to be accrued from the establishment of this school, I support this program because there are no satisfactory alternatives.

I strongly urge that the amendment be rejected.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Mississippi (Mr. STENNIS).

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

STATEMENT BY SENATOR STENNIS

I rise in opposition to the amendment.

I must admit, I am somewhat perplexed and shocked by this amendment inasmuch as there is no money in this bill designated for the University. The Congress has authorized and appropriated the total amount of money which is required to construct the medical school. It is obvious that it is the desire of the Congress, indeed this body, that the medical school be established.

The proper time for debate on this subject was in 1972 when the legislation authorizing this program was considered. And in 1974 when $15 million was requested by the University for construction of the first permanent facility of the medical school. And last year when this body considered the University's request for an additional $65 million to construct the second and final increment of the medical school building program.

The Congress on all these occasions has affirmed and reaffirmed its support of this program.

Pursuant to our direction, the university has progressed to the point where it will enroll a charter class of 32 medical students in the fall of this year. The Liaison Committee on Medical Education has informed the university that it will receive provisional academic accreditation. Over 30 faculty appointments, including heads of departments, have been made. Many of these persons who have received faculty appointments are highly respected physicians and scientists who, believing this to be a viable program, have agreed to leave good secure positions with civilian medical schools.

I believe we have a commitment and obligation to them.

Thirty-two students, who are from all parts of the United States, have been notified that they have been accepted to attend the medical school. Over a majority of the students who have indicated they will accept the university's invitation were also accepted to civilian medical schools. They turned down other opportunities to attend medical school opting for the uniformed services university. I think we have a commitment and obligation to them.

Those who are making this 11th hour appeal to terminate this program by denying all previously appropriated funds to the university base their reasoning on cost effectiveness. It is particularly relevant to note that the GAO explicitly points out in their report to the Congress on the university and Armed Forces professions scholarship program that numerous benefits will be derived from the establishment of this medical school and that they are very relevant to the consideration of the programs.

The bottom line figure according to GAO when comparing the two programs is $26,236 for the university graduate and $21,444 for the scholarship graduate. That is a cost differential of 22.3 percent, certainly not unreasonable when one considers that is only the cost to the Department of Defense. If we were to include the total Federal contribution to the education of a physician, the cost of the scholarship graduate would be approximately $6,000 more.

Since the military is going to receive the lion's share of service from graduates of the university, the Department of Defense should pay the bill.

This program is both reasonable in terms of costs and necessary if we are to provide the military with the necessary number of physicians to attend to the needs of those who are in service.

For these reasons, I strongly urge that this amendment be defeated.

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

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. THURMOND. Mr. President, I rise in opposition to the amendment in the firm belief that the Nation and the military will be well served by the Uniformed Services University of the Health Sciences.

This program was authorized by the Congress in 1972 and will eventually become the principal source of procuring physicians for the Armed Forces.

The Uniformed Services University will be complemented by a scholarship program which is complimentary, not competitive. My support for this program rests on two principal conclusions. First, that the university will provide a positive and lasting source of physicians for the Armed Forces, and second, that the cost of this approach is reasonable and consistent with the needs of the Nation and the military.

PHYSICIAN SOURCE NEEDED

The military is presently dependent upon physician recruitment through the medical schools of the Nation. Most of these schools are presently overcrowded and there is a definite shortage of doctors as a result. Further, the States are reluctant to give these critical spaces for the training of physicians who will not be serving in the States in which these schools are located.

The new uniformed services university not only provides the Nation with a sure source of military physicians, we are aided further by the fact that its graduates will render longer service to the military.

The average military physician coming through the scholarship program will serve a minimum of 4 years and an average of 7 years. Those graduating from the uniformed services university will serve a minimum of 13 years and an average of 16 years.

Thus, it is clear that most of the physicians trained in the University will have incurred a period of military service greater than the scholarship trained physicians. In addition, the longer period of service of those produced by the uniformed services university will obviously lead to many of these individuals remaining in the military for their career.

UNIVERSITY COSTS REASONABLE

The other reason for my support of this program is the fact that based on the cost of the Department of Defense, the uniformed services university annual cost is about $26,000 per staff year compared to $22,000 per staff year in the scholarship program.

However, this cost fails to recognize that the Federal Government is subsidizing the civilian medical schools on the average of $12,000 annually per student. Once this cost is added to the $22,000 mentioned above, the cost comparison is $32,000 under the scholarship program and only $26,000 under the uniformed services university program.

Mr. President, before closing there are other reasons I could cite in support of the university. There is a need for specialized training in military medicine not available in the average medical school. This is a worthy point in support of the university program. Also, it should be recognized this program is already underway with construction begun and the first students scheduled to enter the school in September.

In conclusion, I would urge that the Senate reject the amendment aimed at terminating the uniformed services university of health sciences program.

Mr. FORD. Mr. President, I want the Senator to be able to say everything he wants to say.

Mr. PASTORE. No, I was going to make a point of order.

Mr. FORD. All right.

Mr. President, the desirability of the second and third alternatives is that, under the scholarship program's enabling legislation, the Secretary of Defense can provide any accredited institution with additional payments necessary to cover the increased costs to that institution caused solely by increases in its total enrollment due to acceptance of members of the scholarship program. Option No. 3—an annual increase of 379 scholarship students would provide a bonus of $10,247 per student. Each of the Nation's 114 accredited civilian medical schools could train 3 to 4 additional medical students per year and would receive over $30,000.

If DOD were to provide additional funding to civilian medical schools under option No. 2—an increase of scholarship medical students of 106 per year—about

$34,023 for each student could be granted. Nearly all the 114 medical schools would have to admit one additional student per year.

Even the Defense Manpower Commission—the very body chartered by Congress to make recommendations on balancing an adequate defense with the best possible return on the defense dollar—supports the GAO study.

The Commission takes particular issue with two aspects of the university's justification of its program as being comparable in costs per man-year of service to the scholarship program.

First of all, construction costs were not—yet should have been—included in cost estimates of the program. Its facilities are nowhere near completion, and as we all know, buildings are not a free commodity.

Second, and equally significant, Fedoral contributions to civilian medical schools have no bearing on the cost of the scholarship program, and are incorrectly included as part of it. These are unrelated costs, having existed before the beginning of the scholarship program.

The GAO backs up this point and goes one step further. In a June report prepared for the House Armed Services Committee, it points out that in order to provide any basis for comparing the Federal costs of the two programs, additional costs—such as the use of staff and facilities at nearby military medical institutions to provide support to the university program—would have to be included in the incremental costs estimated for the university program.

It is argued that there is a shortage of physicians in this country. The fact of the matter is that the physician/population ratio has significantly increased since 1965. In fiscal year 1969 there were 161 physicians per 100,000 population; in fiscal year 1975, there were 182 physicians per 100,000 population. The Secretary of Health, Education, and Welfare stated in 1975 that Federal aid coming from the Health Manpower Training Act of 1972 may well result in a surplus of physicians. Since 1972 enrollments have increased by 34 percent and graduates by 45 percent and further increases in graduates will be forthcoming in the next few years. With the maintenance of this training capacity, adequate numbers of health professionals will soon be in practice. It is only a matter of time as to when these large classes will impact upon American society.

I suggest to the Senate that instead of a long-term overall physician shortage, the United States is suffering from two, more severe problems—geographic and speciality maldistribution.

Even if our physician shortage is not being cured as quickly as it might be—and I wish it could be greatly speeded up—the fact that there is a scarcity of doctors is no argument on behalf of a program that produces fewer medical graduates and costs more to do so than another program that produces more and costs less. Again, the university program costs $150,000 more per graduate than the scholarship program.

Voices protest that the construction of the university is too far along to be terminated now. The Congress has appropriated two increments totaling $79.9 million for the construction projects, and only part of that has been spent. Construction of the first phase, costing $15 million is only 35 percent completed. Work on increment No. 2, a $64.9 million appropriation, has only just begun and is 2 percent completed. None of the money already obligated and spent for construction will be wasted. However, because there is a large scale building project underway at the nearby Bethesda Naval Medical Center and the university facility could be used in that program, as both the Navy and the GAO have indicated.

It is said that students have already been accepted to the charter class for the fall of this year and that we cannot be so heartless as to pull the rug out from under them now by terminating the university program. But, according to David Packard, Chairman of the Board of Regents, the situation is not nearly so grim: 24 students have been conditionally accepted and 80 others have been notified that they are alternates.

At this point I ask, where will these students receive their instruction? The first increment, 35 percent finished, has a completion date of January 1977. This is to consist of a basic science building, including some classrooms and laboratories. The second increment, the main university building, classrooms, laboratories, research space, a library, and parking garage, is not expected to be completed until August 1978. Are they going to meet in a construction site or an unfinished shell?

Finally, advocates of the university program maintain that it will offer greater opportunity for specialized training in "military medicine." I ask the Senators here, "What is military medicine?" I have been unable to find a definition for it and am curious. The example used most often is tropical medicine.

Mr. President, if tropical medicine needs to be studied, LSU has a fine medical school offering training in that area. LSU also offers the opportunity to work in the Nation's only leper colony. Military doctors can easily receive specialized training at our civilian schools.

Since the birth of the idea of the university, the mission of our military has changed. We no longer can afford to be a global policeman and are pulling back from bases all over the world. Just the other day the administration decided to leave the islands of Quemoy and Matsu. We may soon have no troops left in Thailand. Why is "military medicine" needed to take care of troops in Europe and the United States?

Furthermore, scholarship program students have 45 days annually of active duty service. Can they not get satisfactory experience and on-the-job training then?

My interest in the uniformed services university of the health sciences was aroused because as Governor of Kentucky I had the experience of trying to expand and improve two medical schools. I know what the costs of new facilities and new teaching manpower are compared to expanding upon existing medical schools, and they are greater to the point of being economically unjustifiable.

If our objective is—as I feel it should be—to meet the uniformed services medical needs at the lowest possible cost to the taxpayer, then our choice is clear. The GAO study clearly indicates that there are three less-expensive alternatives to the university—that an opportunity does exist for the Congress to eliminate a totally unwise and unnecessary expenditure of taxpayer dollars.

Mr. President, the choice is ours—and the choice is clear.

Just one moment, Mr. President, then the Senator from Rhode Island may make his point of order.

I think the Senator from North Carolina is more opposed to the AMA than he is to this amendment. I have not talked to the AMA, have not asked the AMA anything.

I happen to have a little experience in trying to fund two medical schools in a pretty nice State—I think it is the best one.

I think 75 percent of the 175 military service graduates will be leaving little service for the civilian population when we can get 206 more doctors in a civilian arena under my proposal.

I am ready for the Senator from Rhode Island to make his point of order.

The ACTING PRESIDENT pro tempore. Does the Senator from Kentucky yield back the remainder of his hime?

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

The ACTING PRESIDENT pro tempore. All time has been yielded back. The point of order is in order.

Mr. PASTORE. I make the point of order. This is legislation on an appropriation bill.

Mr. STEVENS. That it violates 404(c) 2 of the act, because that act gives the committee only the power to rescind funds previously appropriated.

Mr. FORD. A point of information. I would like to hear the Parliamentarian's ruling. Is the Parliamentarian ready to rule?

The ACTING PRESIDENT pro tempore. The Chair is ready to rule.

Mr. FORD. Well, I understand how the Chair will rule.

The ACTING PRESIDENT pro tempore. The point of order that the amendment is legislation on an appropriations bill is sustained.

Mr. FORD. Is that the only objection to the amendment?

Mr. PASTORE. For the time being, yes.

Mr. FORD. The parliamentary procedure is what I am asking.

Mr. PASTORE. Oh, I am sorry.

Mr. FORD. The amendment will come up again.

The ACTING PRESIDENT pro tempore. As the Senator from Alaska correctly stated, the Appropriations Committee could have put in a rescinding provision, but an amendment on the floor to do the same would not lie as being legislation on an appropriations bill.

For that reason, the point of order

raised by the Senator from Rhode Island is sustained.

Mr. FORD. Mr. President, did I understand the Chair to rule then that this body cannot vote under normal routine procedures to add or delete unless a committee has submitted it to the Senate?

The ACTING PRESIDENT pro tempore. That is not the case.

Mr. FORD. That is not the case?

The ACTING PRESIDENT pro tempore. Under the Budget Impoundment Act, the committee is given the jurisdiction over rescissions.

Mr. FORD. This is the decision.

The ACTING PRESIDENT pro tempore. But rule XVI, paragraph 4, which precludes legislation on an appropriations bill, is not waived and the point of order raised under it lies.

Mr. FORD. I thank the Chair.

Mr. MANSFIELD. Mr. President, I think that I am somewhat to blame for the situation which confronts us at the present time because the distinguished Senator from Wisconsin (Mr. PROXMIRE) was prepared to bring this up in the Appropriations Committee after the subcommittee had brought the bill to the full committee's attention.

Unfortunately, he was delayed by another committee, and, therefore, was unable to be there for that argument.

Had I known about this, I would have expected——

Mr. PROXMIRE. May I say, Mr. President, that the majority leader was just as accommodating as he could be. It was my fault entirely.

I had to make a choice between two committees. I felt I could not evade my duty in the other committee, so I went there.

The Senator from Montana was very accommodating and helpful and courteous, and I want to thank him.

Mr. MANSFIELD. I thank the Senator.

Mr. President, at the conclusion of my opening remarks on the pending business, I forgot to make the following request.

I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

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

Mr. BELLMON. Will the Senator yield for a question?

Mr. MANSFIELD. Yes.

Mr. BELLMON. I call the distinguished majority leader's attention to page 10 of the bill, section 111.

It is my understanding that this section 111 is simply a reaffirmation of the sense of Congress that the executive branch should comply with the National Environmental Policy Act in carrying out its base realinement activities.

It is my understanding that this is not intended to place any additional or special requirements on the Department of Defense which exceed the existing mandate of NEPA.

Are these assumptions correct?

Mr. MANSFIELD. They are correct. I point out that the subcommittee put in $3 million for each of the services in that regard.

Mr. BELLMON. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. If there be no further amendment, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

Mr. MUSKIE. Mr. President, the Senate is now deliberating H.R. 14235, the military construction appropriation bill for fiscal year 1977. I speak in support of this bill and take this opportunity to comment on the relationship between the bill and the totals allocated by the Committee on Appropriations to its Military Construction Subcommittee.

Pursuant to section 302(b) of the Budget Act, the Committee on Appropriations allocated to the Military Construction Subcommittee $3.5 billion in budget authority and $3.2 billion in outlays. The funds provided in this appropriation bill are $3.4 billion in budget authority and $3.2 billion in outlays. Thus, the bill is $0.1 billion less in budget authority than the amount allocated while the outlay total is the same as allocated.

Mr. President, because this bill deals with the national security function, I believe it is appropriate for me to reiterate a point that I have made time and again before this body. It concerns the proposed legislative savings for pay and compensation and sales of stockpile materials that are essential to our success in meeting the congressional targets for national defense established in the first concurrent resolution. A few of the potential savings we can achieve are: Repeal of the 1-percent kicker for retired pay; establishment of a pay cap for Federal workers; elimination of the commissary subsidy; and sales of strategic materials. If we are to stay within the budget targets that the Congress agreed to for the fiscal year 1977 budget, we must work hard to achieve all possible savings.

I wish to extend my appreciation to my good friends, the distinguished Senator from Montana (Mr. MANSFIELD), chairman of the Subcommittee on Military Construction, and the distinguished chairman of the Committee on Appropriations (Mr. MCCLELLAN), for their dedicated efforts in bringing before us a bill which is within the guidelines established in the first budget resolution.

The ACTING PRESIDENT pro tempore. Do the Senators yield back the remainder of their time?

All time has been yielded back. The bill, having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Dakota (Mr. BURDICK), the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are absent on official business.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 64, nays 0, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—64

Abourezk	Fong	Muskie
Allen	Ford	Nelson
Bartlett	Glenn	Nunn
Beall	Gravel	Packwood
Bellmon	Griffin	Pastore
Bentsen	Hansen	Pearson
Biden	Haskell	Pell
Brooke	Hathaway	Proxmire
Bumpers	Helms	Randolph
Byrd, Harry F., Jr.	Hollings	Ribicoff
Byrd, Robert C.	Huddleston	Roth
Cannon	Jackson	Schweiker
Case	Johnston	Scott, Hugh
Church	Magnuson	Scott, William L.
Clark	Mansfield	Stevens
Cranston	Mathias	Stevenson
Culver	McGee	Stone
Dole	McGovern	Taft
Durkin	McIntyre	Thurmond
Eastland	Metcalf	Williams
Fannin	Morgan	Young
	Moss	

NAYS—0

NOT VOTING—36

Baker	Hart, Philip A.	McClure
Bayh	Hartke	Mondale
Brock	Hatfield	Montoya
Buckley	Hruska	Percy
Burdick	Humphrey	Sparkman
Chiles	Inouye	Stafford
Curtis	Javits	Stennis
Domenici	Kennedy	Symington
Eagleton	Laxalt	Talmadge
Garn	Leahy	Tower
Goldwater	Long	Tunney
Hart, Gary	McClellan	Weicker

So the bill (H.R. 14235), as amended, was passed.

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

The motion was agreed to; and the Acting President pro tempore (Mr. STONE) appointed Mr. MANSFIELD, Mr. MCCLELLAN, Mr. INOUYE, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. STEVENS, Mr. YOUNG. Mr. BELLMON, Mr. BROOKE, Mr. SYMINGTON, Mr. CANNON, Mr. TOWER, and Mr. CASE conferees on the part of the Senate.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14231, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 14231) making appropriations for the Department of the Interior and related agncies for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. The time for debate on this bill shall be limited to 1 hour, to be equally divided and controlled by the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Alaska (Mr. STEVENS) with 20 minutes on any amendment, debatable motion, appeal, or point of order.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. MCGEE. Mr. President, I ask unanimous consent that my staff member, Dr. John Baines, be accorded the privilege of the floor during consideration of this bill.

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

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

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senate is not in order. Will Senators who wish to converse kindly withdraw to the cloakroom.

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

Mr. President, the appropriations bill for the Department of Interior and related agencies is a complex one, but one that draws a good deal of attention from the Senate. The committee has received and considered hundreds of amendments again this year involving requests for additional funding that would have more than doubled the size of the bill. Because it involves the full range of energy, natural resources and Indian programs, the committee also heard from hundreds of public witnesses in addition to the regular agency budget hearings that spanned several months.

A great deal of work has gone into the bill, and I thank the ranking minority member of the subcommittee (Mr. STEVENS) for all of the burden that he has so willingly shouldered in helping to conduct all of the extensive subcommittee hearings. It is obvious to anyone that I could not chair all of those subcommittee hearings because of my duties as majority whip and Mr. STEVENS willingly picked up those hearings that I could not attend. He conducted several hearings which I could not chair and his cooperation has been invaluable to me.

SUMMARY OF FUNDING

Mr. President, the Interior and related agencies appropriations bill before us today carries total new appropriations of more than $6.2 billion, including some $267 million in appropriations to liquidate contract authority and $25 million in borrowing authority.

This is an increase of $255.2 million in the President's budget estimates and $305.3 million over the House allowance. Part of the increase over the House—$107.2 million—involves late-arriving budget amendments that were not considered by the other body. These total appropriations, Mr. President, amount to a sharp increase of more than $1 billion over appropriations for the current fiscal year, mainly in the form of new or expanding energy programs.

These are sizable increases, and they were not lightly considered. Program expansions, as well as selected reductions in some areas of the bill, have been carefully worked out and apply to the highest priorities in energy research and development, natural resource management and protection, and Indian and territorial, and cultural affairs.

The committee was literally inundated with scores of proposed amendments from Senators and Members of the other body, as I noted earlier. Many of the amendments reached the attention of the committee only on the day of the subcommittee markup and the full committee markup. We have tried to act fairly and impartially in responding to these increases.

The committee has recommended significant increases in the administration's budget proposal across a wide sweep of programs to enhance the Nation's natural resources and expand energy development. At the same time, selected reductions in programs of lesser priority have enabled the committee to keep within its assigned ceiling on new budget authority. The bill is at or over the outlay target, however, and I will cover that in a moment.

In the area of land and water needs, forest, range, and wildlifc resources, the committee has recommended more than $82 million in additional appropriations. These additional funds are directed mainly to the Bureau of Land Management, U.S. Fish and Wildlife Service, and the Forest Service.

Recreation resources have drawn additional funds exceeding $160 million. These additional moneys are directed primarily at the growing backlog in national park operations, maintenance, and construction, and particularly at rapidly mounting land acquisition needs of the National Park Service, national forest recreation and wilderness areas, and endangered species habitat.

Energy and mineral programs of the Interior Department have also merited increased support in the committee's recommendations—more than $12 million over the budgeted programs for the Geological Survey, Bureau of Mines, and Mining Enforcement and Safety Administration alone.

Principally because of unacceptable reductions proposed in the Administration's budget for health and construction programs, the committee is recommending nearly $104 million in added funding for Indian programs. Major attention has been devoted to education programs and to school and health facilities.

The budget recommended sharp increases in energy resource development and in energy research, development, and demonstration. In view of the demonstrated capabilities of the various administering agencies to obligate effectively the sharp spendng increases provided in recent years, the committee has exercised restraint in recommending added mor eys. Nonetheless, the committee has marked in an increase of more than $55 million for the Energy Research and Development Administration, directed chiefly at conservation R. & D.

A major reduction recommended by the committee is in petroleum purchases for the strategic petroleum reserve. This is based not on a program reduction but on the committee's estimate of actual needs and capabilitiy. Funds to implement the early storage plan by acquiring storage sites and facilities have just become available in the recently enacted second supplemental appropriations bill, and it was highly questionable whether the Federal Energy Administration would be able to obligate the $550 million requested in the budget. Accordingly, the committee recommends a $110 million reduction, in agreement with the House-reported allowance. Smaller reductions have been recommended for several agencies funded in the bill, mainly in salaries and expenses.

INCOMPLETE AUTHORIZATIONS

Mr. President, we unfortunately still have to live with a situation where many programs in the bill do not yet have completed authorizing legislation. I had hoped that, under the Budget Reform Act, this would not be a serious problem this year. Yet, such agencies and programs as the Energy Research and Development Administration, the Federal Energy Administration, the National Foundation on the Arts and Humanities, the Pennsylvania Avenue Development Corporation and others are still awaiting final congressional action on their authorizations.

In the case of the Federal Energy Administration we are recommending special language in the bill because of the continuing uncertainty over just what final decision Congress will make in extending the life of this agency. In the event that the FEA is not reauthorized and expires on June 30, the committee has included language in the bill authorizing the transfer of funds appropriated to the FEA to other agencies to which the FEA's energy management functions would have to be assigned. We see no other recourse since time is running out.

In the case of other unauthorized agencies or programs funded in the bill, we have included language making appropriations available only upon the enactment of required authorizations.

Mr. President, three late budget amendments have been included in full in the bill, two of them involving needed funding increases related to the Interior Department's assumption of the management of the Alaska petroleum reserve and one providing $20 million in emergency assistance to the island of Guam. The Guam provision was also included in the House bill yesterday as a floor amendment.

SPENDING CEILING

Finally, Mr. President, the question of spending targets: As I stated earlier, the committee's recommendations were carefully developed to keep budget authority amounts well within the ceiling it has set for the Department of Interior and related agencies appropriation for fiscal year 1977. As displayed in the committee report, the recommended total is more than $700 million below target, but the balance will be needed to accommodate anticipated supplementals and possible new energy program authorizations.

A sharp increase in budget outlay estimates, however, has driven the total calculated for the bill just above the committee's $6.1 billion target. This has largely been caused by outlay increases in the administration's budget requests brought on partly by a series of unanticipated budget amendments and partly by Congressional Budget Office reestimates. Those changes have greater impact than the increases recommended by the committee.

This is a matter of serious concern to the committee. A careful analysis of CBO outlay estimates is needed to determine if all the upward revisions are required. Some adjustment in estimates or in the bill outlay target will clearly be required to provide for spending needs through the balance of the fiscal year.

On a budget function basis, the committee's recommendations would appear to be well within ceilings established under the budget resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD a comparative table reflecting the fiscal year 1976 appropriations, the fiscal year 1977 estimates, the amounts appropriated by the House and the amounts recommended by the committee, with comparisons.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1976 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1977

Item	1976 Appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1976 Appropriation	Budget estimate	House allowance
TITLE I—DEPARTMENT OF THE INTERIOR							
LAND AND WATER RESOURCES							
Bureau of Land Management							
Management of lands and resources	$215,463,000	$220,240,000	$216,299,000	$223,829,000	+$8,366,000	+$3,589,000	+$7,530,000
Construction and maintenance	9,404,000	9,884,000	7,510,000	9,970,000	+566,000	+86,000	+2,460,000
Public lands development roads and trails (appropriation to liquidate contract authority)	(3,183,000)	(5,000,000)	(5,000,000)	(5,000,000)	(+1,817,000)	(.....)	(.....)
Oregon and California grant lands (indefinite, appropriation of receipts)	28,000,000	30,000,000	30,000,000	30,000,000	+2,000,000	.....	.....
Range improvements (indefinite, appropriation of receipts)	5,435,000	7,235,000	7,235,000	7,235,000	+1,800,000	.....	.....
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000	300,000	.....	.....	.....
Subtota	258,602,000	267,659,000	261,344,000	271,334,000	+12,732,000	+3,675,000	+9,990,000
Office of Water Research and Technology							
Salaries and expenses	18,180,000	22,273,000	21,003,000	21,553,000	+3,373,000	−720,000	+550,000
Total, land and water resources	276,782,000	289,932,000	282,347,000	292,887,000	+16,105,000	+2,955,000	+10,540,000
FISH AND WILDLIFE AND PARKS							
Bureau of Outdoor Recreation							
Salaries and expenses	5,889,000	6,187,000	5,961,000	5,961,000	+72,000	−226,000	.....
Land and Water Conservation Fund							
Appropriation of receipts (indefinite)	316,986,000	300,000,000	307,056,000	430,461,000	+113,475,000	+130,461,000	+123,405,000
United States Fish and Wildlife Service							
Resource management	120,750,000	122,821,000	127,799,000	129,169,000	+8,419,000	+6,348,000	+1,370,000
Construction and anadromous fish	19,311,000	6,727,000	14,493,000	15,330,000	−3,981,000	+8,603,000	+837,000
Migratory bird conservation account (definite, repayable advance)	7,500,000	.....	7,500,000	.....	−7,500,000	.....	−7,500,000
Subtotal	147,561,000	129,548,000	149,792,000	144,499,000	−3,062,000	+14,951,000	−5,293,000
National Park Service							
Operation of the national park system	255,203,000	272,864,000	272,685,000	280,437,000	+25,234,000	+7,573,000	+7,752,000
Planning and construction	27,457,000	33,200,000	37,228,000	40,237,000	+12,780,000	+7,037,000	+3,009,000)
Road construction (appropriation to liquidate contract authority)	(40,115,000)	(18,000,000)	(19,100,000)	(23,495,000)	(−16,620,000)	(+5,495,000)	(+4,395,000
Preservation of historic properties	24,666,000	14,500,000	19,500,000	24,500,000	−166,000	+10,000,000	+5,000,000
Planning, development and operation of recreation facilities (indefinite, special fund)	14,000,000	14,000,000	14,000,000	14,000,000	.....	.....	.....
John F. Kennedy Center for the Performing Arts	2,645,000	3,072,000	3,072,000	3,072,000	+427,000	.....	.....
Subtotal	323,971,000	337,636,000	346,485,000	362,246,000	+38,275,000	+24,610,000	+15,761,000
Total, Fish and Wildlife and Parks	794,407,000	773,371,000	808,237,000	943,167,000	+148,760,000	+169,796,000	+134,930,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1976 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1977—Continued

Item	1976 Appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1976 Appropriation	Budget estimate	House allowance
ENERGY AND MINERALS							
Geological Survey							
Surveys, investigations, and research	$272,836,000	$297,858,000	$296,146,000	$306,516,000	+$33,680,000	+$8,658,000	+$10,370,000
Mining Enforcement and Safety Administration							
Salaries and expenses	84,465,000	91,040,000	91,098,000	93,740,000	+9,275,000	+2,700,000	+2,642,000
Bureau of Mines							
Mines and minerals	158,818,000	157,710,000	163,351,000	158,037,000	−781,000	+867,000	−5,278,000
Total, energy and minerals	516,119,000	546,068,000	550,559,000	558,293,000	+42,174,000	+12,225,000	+7,734,000
INDIAN AFFAIRS							
Bureau of Indian Affairs							
Operation of Indian Programs	566,118,000	589,510,000	602,610,000	602,113,000	+35,995,000	+12,603,000	−497,000
Construction	80,672,000	46,263,000	70,969,000	82,406,000	+1,734,000	+36,143,000	+11,437,000
Road construction		37,205,000	37,205,000	39,405,000	+39,405,000	+2,200,000	+2,200,000
Road construction (appropriation to liquidate contract authority)	(76,705,000)	(46,795,000)	(36,795,000)	(36,795,000)	(−39,910,000)	(−10,000,000)	( )
Revolving fund for loans	3,000,000				3,000,000		
Indian loan guaranty and insurance fund	10,000,000	20,000,000	15,000,000	15,000,000	+5,000,000	−5,000,000	
Alaska native fund	70,000,000	30,000,000	30,000,000	40,000,000	−30,000,000	+10,000,000	+10,000,000
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000			
Trust funds (indefinite)	31,200,000	35,387,000	35,387,000	35,387,000	+4,187,000		
Total, Indian affairs	763,990,000	761,365,000	794,171,000	871,311,000	+53,321,000	+55,946,000	+23,140,000
TERRITORIAL AFFAIRS							
Office of Territorial Affairs							
Administration of territories	27,753,000	44,046,000	43,846,000	43,846,000	+16,093,000	−200,000	
Permanent appropriation (special fund)	(600,000)	(256,000)	(256,000)	(256,000)	(−344,000)	( )	( )
Transferred from other accounts (special fund)	(975,000)	(620,000)	(620,000)	(620,000)	(−355,000)	( )	( )
Trust Territory of the Pacific Islands	86,438,000	82,321,000	84,566,000	81,277,000	−5,161,000	−1,044,000	−3,289,000
Micronesian claims fund, Trust Territory of the Pacific Islands	10,000,000				−10,000,000		
Ex gratia payment, Bikini Atoll	3,000,000				−3,000,000		
Total, territorial affairs	127,191,000	126,367,000	128,412,000	125,123,000	−2,068,000	−1,244,000	−3,289,000
SECRETARIAL OFFICES							
Office of the Solicitor							
Salaries ane expenses	11,598,000	12,658,000	12,371,000	12,371,000	+773,000	−287,000	
Office of the Secretary							
Salaries and expenses	19,256,000	21,097,000	20,430,000	21,060,000	+1,804,000	−37,000	+630,000
Departmental operations	12,366,000	14,425,000	11,812,000	13,770,000	+1,404,000	−655,000	+1,958,000
Salaries and expenses (special foreign currency program)	1,494,000	907,000	907,000	907,000	−587,000		
Subtotal	33,116,000	36,429,000	33,149,000	35,737,000	+2,621,000	−692,000	+2,588,000
Total, secretarial offices	44,714,000	49,087,000	45,520,000	48,108,000	+3,394,000	−979,000	+2,588,000
Total, new budget (obligational) authority, Department of the Interior	2,523,203,000	2,546,190,000	2,610,303,000	2,784,889,000	+261,686,000	+238,699,000	+174,586,000
Consisting of—							
Appropriations	2,523,203,000	2,546,190,000	2,610,303,000	2,784,889,000	+261,686,000	+238,699,000	+174,586,000
Definite Appropriations	2,127,282,000	2,159,268,000	2,216,325,000	2,267,506,000	+140,224,000	+180,238,000	+51,181,000
Indefinite Appropriations	395,921,000	386,922,000	393,978,000	517,383,000	+121,462,000	+130,461,000	+123,405,000
Memoranda—							
Appropriations to liquidate contract authority	120,003,000	69,795,000	60,895,000	64,290,000	−54,713,000	−4,505,000	+4,395,000
Total, new budget (obligational) authority and appropriations to liquidate contract authority	2,643,206,000	2,615,985,000	2,671,198,000	2,850,179,000	+206,973,000	+234,194,000	+178,981,000
TITLE II—RELATED AGENCIES							
DEPARTMENT OF AGRICULTURE							
Forest Service							
Forest protection and utilization:							
Forest land management	489,658,000	388,621,000	395,911,000	399,248,000	−90,410,000	+10,627,000	+3,337,000
Forest research	82,280,000	84,691,000	83,311,000	88,537,000	+6,257,000	+3,846,000	+5,226,000
State and private forestry cooperation	33,158,000	24,800,000	33,254,000	33,254,000	+96,000	+8,454,000	
Subtotal	605,096,000	498,112,000	512,476,000	521,039,000	+84,057,000	+22,927,000	+8,563,000
Construction and land acquisition	18,523,000	14,414,000	16,674,000	17,244,000	−1,279,000	+2,830,000	+570,000
Youth conservation corps	35,098,000		28,000,000	35,000,000	−98,000	+35,000,000	+7,000,000
Forest roads		200,000,000	173,000,000	173,000,000	+173,000,000	−27,000,000	
Forest roads and trails (appropriation to liquidate contract authority)	(112,857,000)	(170,104,000)	(216,104,000)	(200,104,000)	(+87,247,000)	+(30,000,000)	(−16,000,000)
Acquisition of lands for national forests:							
Special acts (special fund, indefinite)	161,000	160,000	160,000	160,000	−1,000		
Acquisition of lands to complete land exchanges	35,000	54,000	54,000	54,000	+19,000		
Cooperative range improvements (special fund, indefinite)	700,000	700,000	700,000	700,000			
Assistance to States for tree planting	1,368,000	1,373,000	1,373,000	1,373,000	+5,000		
Construction and operation of recreation facilities (indefinite, special fund)	3,674,000	2,475,000	2,475,000	2,475,000	−1,199,000		
Total, Forest Service	664,655,000	717,288,000	734,912,000	751,045,000	+86,390,000	+33,757,000	+16,133,000
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION							
Operating expenses, fossil fuels	431,266,000	493,230,000	544,275,000	541,611,000	+110,345,000	+48,381,000	−2,664,000
Plant and capital equipment, fossil fuels	21,025,000	57,220,000	68,570,000	63,920,000	+42,895,000	+6,700,000	−4,650,000
Special foreign currency program, fossil fuels	6,650,000				−6,650,000		
Total	458,941,000	550,450,000	612,845,000	605,531,000	+146,590,000	+55,081,000	−7,314,000

Item	1976 Appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1976 Appropriation	Budget estimate	House allowance
TITLE II—RELATED AGENCIES—Continued							
FEDERAL ENERGY ADMINISTRATION							
Salaries and expenses	$153,077,000	$193,157,000	$148,458,000	$185,220,000	+$32,143,000	−$7,937,000	+$36,762,000
Strategic petroleum reserve	313,375,000	557,684,000	447,684,000	447,684,000	+134,309,000	−110,000,000	
Total	466,452,000	750,841,000	596,142,000	632,904,000	+166,452,000	−117,937,000	+36,762,000
FUNDS APPROPRIATED TO THE PRESIDENT							
Petroleum reserves	141,852,000	421,366,000	406,116,000	406,116,000	+264,264,000	−15,250,000	
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services Administration							
Indian health services	294,809,000	354,451,000	314,562,000	349,413,000	+54,604,000	−5,038,000	+34,851,000
Indian health facilities	55,616,000	40,345,000	70,663,000	76,499,000	+20,883,000	+36,154,000	+5,836,000
Total	350,425,000	394,796,000	385,225,000	425,912,000	+75,487,000	+31,116,000	+40,687,000
Office of Education							
Indian education	57,055,000	42,055,000	40,933,000	58,983,000	+1,928,000	+16,928,000	+18,050,000
INDIAN CLAIMS COMMISSION							
Salaries and expenses	1,411,000	1,530,000	1,525,000	1,525,000	+114,000	−5,000	
NAVAJO AND HOPI RELOCATION COMMISSION							
Salaries and expenses	12,700,000	500,000	400,000	400,000	−12,300,000	−100,000	
SMITHSONIAN INSTITUTION							
Salaries and expenses	81,673,000	85,100,000	82,635,000	82,616,000	+943,000	−2,484,000	−19,000
Museum programs and related research (special foreign currency program)	500,000	4,481,000	2,500,000	3,481,000	+2,981,000	−1,000,000	+981,000
Science information exchange	1,940,000	1,900,000	1,900,000	1,900,000	−40,000		
Construction and improvements, National Zoological Park	8,390,000	6,800,000	6,580,000	6,580,000	−1,810,000	−200,000	
Restoration and renovation of buildings	1,192,000	3,300,000	2,700,000	3,050,000	+1,858,000	−250,000	+350,000
Construction		500,000				−500,000	
Construction (appropriation to liquidate contract authority)	(2,500,000)	( )	( )	( )	(−2,500,000)	( )	( )
Salaries and expenses, National Gallery of Art	7,759,000	12,309,000	12,309,000	11,546,000	+3,787,000	−763,000	−763,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	975,000	1,120,000	1,120,000	1,120,000	+145,000		
Total	102,429,000	115,510,000	109,744,000	110,293,000	+7,864,000	−5,217,000	+549,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES							
Salaries and Expenses							
Endowment for the arts	74,500,000	79,500,000	77,500,000	77,500,000	+3,000,000	−2,000,000	
Endowment for the humanities	72,000,000	79,500,000	77,500,000	77,500,000	+5,500,000	−2,000,000	
Administrative expenses	10,910,000	11,000,000	11,000,000	11,000,000	+90,000		
Subtotal	157,410,000	170,000,000	166,000,000	166,000,000	+8,590,000	−4,000,000	
Matching Grants							
Endowment for the arts (indefinite)	7,500,000	7,500,000	7,000,000	7,500,000			+$500,000
Endowment for the humanities (indefinite)	7,500,000	7,500,000	7,000,000	7,000,000	−500,000	−500,000	−500,000
Subtotal	15,000,000	15,000,000	14,000,000	14,500,000	−500,000	−500,000	+500,000
Total, National Foundation on the Arts and Humanities	172,410,000	185,000,000	180,000,000	180,500,000	+8,090,000	−4,500,000	+500,000
COMMISSION OF FINE ARTS							
Salaries and expenses	202,000	215,000	214,000	214,000	+12,000	−1,000	
NATIONAL CAPITAL PLANNING COMMISSION							
Salaries and expenses	1,871,000	1,904,000	1,904,000	1,904,000	+33,000		
AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION							
Salaries and expenses	9,462,000	1,965,000	65,000	65,000	−9,397,000	−1,900,000	
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION							
Salaries and expenses		29,000	29,000	29,000	+29,000		
LOWELL HISTORIC CANAL DISTRICT COMMISSION							
Salaries and expenses	120,000				−120,000		
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA							
Salaries and expenses	764,000	540,000	540,000	737,000	−27,000	+197,000	+197,000
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION							
Salaries and expenses	824,000	1,425,000		1,318,000	+494,000	−107,000	+1,318,000
Land acquisition and development (borrowing authority)		25,000,000		25,000,000	+25,000,000		+25,000,000
Public development		11,450,000		10,450,000	+10,450,000	−1,000,000	+10,450,000
Total	824,000	37,875,000		36,768,000	+35,944,000	−1,017,000	+36,768,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1976 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1977—Continued

Item	1976 Appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1976 Appropriation	Budget estimate	House allowance
Total, new budget (obligational) authority, Related Agencies	$2,441,573,000	$3,221,864,000	$3,070,594,000	$3,212,926,000	+$771,353,000	−$8,938,000	+$142,332,000
Consisting of—							
Appropriations	2,441,573,000	3,196,864,000	3,070,594,000	3,187,926,000	+746,353,000	−8,938,000	+117,332,000
Definite appropriations	2,422,038,000	3,178,529,000	3,053,259,000	3,170,091,000	+748,053,000	−8,438,000	+116,832,000
Indefinite appropriations	19,535,000	18,335,000	17,335,000	17,835,000	−1,700,000	−500,000	+500,000
Borrowing Authority		25,000,000		25,000,000	+25,000,000		+25,000,000
Memoranda—							
Appropriations to liquidate contract authority	115,357,000	170,104,000	216,104,000	200,104,000	+84,747,000	+30,100,000	−16,000,000
Total, new budget (obligational) authority and appropriations to liquidate contract authority	2,556,930,000	3,391,968,000	3,286,698,000	3,413,030,000	+856,100,000	+21,062,000	+126,332,000
RECAPITULATION							
Total, new budget (obligational) authority, all titles	4,964,776,000	5,768,054,000	5,680,897,000	5,997,815,000	+1,033,039,000	+229,761,000	+316,918,000
Consisting of—							
Appropriations	4,964,776,000	5,743,054,000	5,680,897,000	5,972,815,000	+1,008,039,000	+229,761,000	+291,918,000
Definite appropriations	4,549,320,000	5,337,797,000	5,269,584,000	5,437,597,000	+888,277,000	+99,800,000	+168,013,000
Indefinite appropriations	415,456,000	405,257,000	411,313,000	535,218,000	+119,762,000	+129,961,000	+123,905,000
Borrowing authority		25,000,000		25,000,000	+25,000,000		+25,000,000
Memoranda—							
Appropriations to liquidate contract authority	235,360,000	239,899,000	276,999,000	265,394,000	+30,034,000	+25,495,000	−11,605,000
Grand total new budget (obligational) authority and appropriations to liquidate contract authority	5,200,136,000	6,007,953,000	5,957,896,000	6,263,209,000	+1,063,073,000	+255,256,000	+305,313,000

Mr. ROBERT C. BYRD. Mr. President, I yield to my distinguished counterpart on the other side of the aisle.

Mr. STEVENS. Mr. President, I appreciate the kind remarks of the distinguished Senator from West Virginia.

I commend him as the distinguished chairman of the Interior Appropriations Subcommittee for another excellent job in guiding this subcommittee. Under his leadership and with the help of his outstanding subcommittee staff, I believe we have succeeded in bringing out a good bill; one that responsibly addresses the needs articulated in our extensive hearings and in the requests for appropriations for items of special concern to Members of this body.

The total recommended by the full committee for the Department of Interior and related agencies in fiscal year 1977 is $6,263,209,000. This is an increase of $1,063,073,000 above the amount appropriated in fiscal year 1976 and $255,256,000 above the amount requested by the administration.

The committee has recommended an increase of almost $200 million for activities relating to coal, mineral, forest, range, and wildlife resources. While this increase is unusually large, revenues from some of these activities are expected to be about $7.5 billion—more than the total appropriation being made in this bill. Increased funding for these areas is clearly a prudent investment.

Over $160 million has been added to the budget request for recreation resources. The bulk of this increase is for land acquisition through the land and water conservation fund, which is recommended for an increase of $130,461,000 above the budget request and $113,475,000 above last year's appropriation.

In the area of human needs, we are recommending approximately $1.3 billion for BIA and HEW programs benefiting Native Americans.

Fossil energy research and most of ERDA's conservation research are also funded through this bill. ERDA's fossil programs have been increased $8.5 million over the budget request. After large increases last year, the conservation programs are being provided a still larger increase of $74 million above the fiscal year 1976 appropriation and $40.5 million above the fiscal year 1977 budget request.

The recommendation for the Federal Energy Administration—FEA—the other energy agency funded in this bill, is $632,904,000. The committee has cut almost $118 million from the FEA budget request. Most of the decrease is in the agency's strategic petroleum reserve program and is due to the committee's belief that the $550 million requested for purchase of the oil for storage could probably not be fully obligated in the fiscal year. In FEA's other programs, the committee has cut almost $8 million, but it has fully restored the $25 million House cut in the State energy conservation or "State grants" program.

Finally, the committee has recommended approximately $299 million for cultural affairs funded through such Federal agencies as the Smithsonian Institution and the National Endowment on the Arts and Humanities. This is an increase of over $16 million above last year's appropriation for these programs.

As the country's resource limitations have become more apparent, the interest in the activities funded in the Interior appropriation bill has grown. There has been increasing pressure to respond to our resource and recreation problems and to the needs of Native Americans with greater and greater appropriations. The Interior Appropriations Subcommittee has been in the awkward position of fully appreciating the need for meaningful responses to these problems and yet also knowing full well that fiscal resources have limits, too; and that providing large funding increases for some of the activities within the scope of this bill would not necessarily assure more meaningful responses to these problems. As the increases I have cited indicate, the subcommittee has met this dual challenge successfully by providing reasonable and sufficient funding for the agencies involved to carry out their respective missions in a responsible, progressive manner.

Again, I commend the Senator from West Virginia for his fine work, and I join with him in urging the Senate to adopt the committee's recommendations without modification.

Mr. ROBERT C. BYRD. Mr. President, in order to put the bill in its proper parliamentary form, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

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

The amendments agreed to en bloc are as follows:

On page 2, in line 10, strike out "$216,299,000" and insert "$223,829,000".

On page 2, in line 14, strike out "$7,510,000" and insert "$9,970,000".

On page 2, in line 20, after "expended" insert a colon and the following:

Provided, That $13,900,000 of unobligated balances of contract authority provided by the Federal-Aid Highway Act of 1973 (P.L. 93-87) and proposed to be unobligated as of September 30, 1977, is hereby rescinded.

On page 6, in line 17, strike out "$21,003,000" and insert $21,553,000".

On page 6, in line 17, strike out "$9,700,000" and insert "$7,540,000".

On page 6, in line 18, after "expended" strike out:

and shall be available for obligation only upon the enactment into law of H.R. 11559, Ninety Fourth Congress, or similar legislation: *Provided*, That the unexpended balances of the appropriations for "Salaries and expenses," Office of Water Resources Research, and "Saline water conversion" shall be merged with this appropriation.

On page 7, in line 16, strike out "$307,056,000" and insert "$430,461,000".

On page 7, in line 19, strike out "$79,603,000" and insert "$172,303,000".

On page 7, in line 21, strike out "$32,506,000" and insert "$56,961,000".

On page 7, in line 22, strike out "$10,745,000" and insert "$16,995,000".

On page 8, in line 11, strike out "$127,799,000" and insert "$129,169,000".

On page 8, in line 22, strike out "$14,493,000" and insert "$15,330,000".

On page 9, beginning with line 1, strike out:

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account; as authorized by the Act of October 4, 1971, as amended (16 U.S.C.

715k-3, 5; 81 Stat. 612), $7,500,000, to remain available until expended.

On page 9, in line 12, strike out "three" and insert "four".

On page 9, in line 12, after "only," insert "one to be obtained by exchange".

On page 10, in line 18, strike out "$272,-685,000" and insert "$280,437,000".

On page 11, in line 8, strike out "$235,000" and insert "$257,000".

On page 11, in line 10, strike out "$37,228,-000" and insert "$40,237,000".

On page 11, in line 11, strike out the colon and the following:

Provided, That $2,060,000 shall be available for obligation only upon the enactment into law of authorizing legislation providing for the acquisition of locomotives and related facilities at the Golden Spike National Historic Site.

On page 11, in line 19, strike out "$19,100,-000" and insert "$23,495,000".

On page 11, in line 20, after "expended" insert a colon and the following:

Provided, That $112,122,000 of unobligated balances of contract authority provided by the Federal-Aid Highway Act of 1973 (P.L. 93-87) and proposed to be unobligated as of September 30, 1977, is hereby rescinded.

On page 12, in line 3, strike out "$19,500,-000" and insert "$24,500,000".

On page 12, in line 4, strike out "$15,000,-000" and insert "$20,000,000".

On page 14, in line 9, strike out "$296,-146,000" and insert "$306,516,000".

On page 15, in line 13, strike out "$91,098,-000" and insert "$93,740,000".

On page 15, in line 21, after "work," insert "and for the purchase of not to exceed 195 passenger motor vehicles".

On page 16, in line 22, strike out "$163,-315,000" and insert "$158,037,000".

On page 16, in line 23, strike out "$30,000,-000" and insert "$97,779,000".

On page 18, in line 11, strike out "$602,-610,000" and insert "$602,113,000".

On page 18, in line 12, strike out "$32,-952,000" and insert "$29,952,000".

On page 18, beginning with line 13, insert "and $17,160,000 for self-determination grants to tribes".

On page 18, beginning with line 15, insert: and that the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1978: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs.

On page 19, in line 11, strike out "$70,969,-000" and insert "$82,406,000".

On page 19, in line 18, strike out "$37,205,-000" and insert "$39,405,000".

On page 20, in line 19, after "203)" insert "and section 409 of Public Law 93-153".

On page 20, in line 20, strike out "$30,-000,000" and insert "$40,000,000".

On page 24, in line 12, strike out "$84,566,-000" and insert "$81,277,000".

On page 25, in line 14, strike out "$20,430,-000" and insert "$21,060,000".

On page 25, in line 18, strike out "$11,812,-000" and insert "$13,770,000".

On page 27, in line 17, after "title" strike out "or in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1977,".

On page 29, in line 12, strike out "$395,-911,000" and insert "$399,248,000".

On page 29, in line 15, strike out "$5,025,-000" and insert "$8,000,000".

On page 29, in line 23, strike out "$15,-012,000" and insert "$18,867,000".

On page 30, in line 3, strike out "$83,311,-000" and insert "$88,537,000".

On page 30, in line 19, strike out "$16,-674,000" and insert "$17,244,000".

On page 31, in line 4, strike out "$28,000,-000" and insert "$35,000,000".

On page 31, in line 6, strike out "$14,000,-000" and insert "$17,500,000".

On page 31, in line 8, strike out "$14,000,-000" and insert "$17,500,000".

On page 31, in line 22, strike out "$216,-104,000" and insert "$200,104,000".

On page 32, in line 4, after "appropriation" insert a colon and the following:

Provided further, That the unused contract authorization contained in Federal-Aid Highway Act of 1973, Public Law 93-87, August 13, 1973, in the amount of $53,827,943 is hereby rescinded.

On page 36, in line 10, strike out "$544,275,-000" and insert "$541,611,000".

On page 37, in line 19, strike out "$68,570,-000" and insert "$63,920,000".

On page 38, in line 11, strike out "$148,458,-000" and insert "$185,220,000".

On page 38, in line 15, after "That", strike out: "the funds made available under this head shall be available for obligation only upon the enactment into law of H.R. 12169, Ninety-Fourth Congress, or similar legislation".

And insert in lieu thereof: "in the event of the expiration of such Administration, the funds provided herein shall be available for obligation by any other entity or entities established to carry out substantially the same functions as such Administration".

On page 39, in line 16, after "expended" insert a colon and the following: *Provided*, That, notwithstanding any other provision of law, in the event the Secretary of the Navy should be unable to dispose of the petroleum produced from Naval Petroleum Reserve Numbered 1 at public sale, he shall submit to the Congress a certification so stating; and within 30 days after such submission, if neither House of the Congress adopts a resolution disapproving termination of production or a portion of production, such production or a portion of such production will cease.

On page 40, in line 10, strike out $314,562,-000" and insert "$349,413,000".

On page 40, in line 20, strike out "$70,663,-000" and insert "$76,499,000".

On page 41, in line 16, strike out "$25,000,-000" and insert "$35,000,000".

On page 41, in line 16, strike out "$11,080,-000" and insert "$18,000,000".

On page 41, in line 17, strike out "$3,000,-000" and insert "$4,000,000".

On page 41, in line 19, strike out $40.933,-000" and insert "$58,983,000".

On page 42, in line 24, strike out "$82,635,-000" and insert "$82,616,000".

On page 43, in line 10, strike out "$2,500,-000" and insert $3,481,000".

On page 44, in line 7, strike out "$2,700,-000" and insert "$3,050,000".

On page 45, in line 5, strike out "$12,309,-000" and insert "$11,546,000".

On page 46, in line 17, strike out "$14,000,-000" and insert "$14,500,000".

On page 48, in line 7, strike out "$540,000" and insert "$737,000".

On page 48, beginning with line 10, insert:

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17 of Public Law 92-578 as amended, $1,318,000: *Provided*, That this appropriation shall be available only upon enactment of authorizing legislation.

LAND ACQUISITION AND DEVELOPMENT

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $25,000,-000 pursuant to the terms and conditions specified in paragraph 10, section 6, of Public Law 92-578: *Provided*, That this authority shall be available only upon the enactment of S. 1689, Ninety-Fourth Congress, or similar legislation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan approved under section 5 of Public Law 92-578, as amendet, $10,450,000: *Provided*, That this appropriation shall be available only upon enactment of authorizing legislation.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield such time to the Senator from Maine as he requires.

Mr. MUSKIE. Mr. President, I shall make a brief statement on this bill from the point of view of the Budget Committee.

The bill we are now considering, H.R. 14231, the Interior and related agencies appropriation bill, provides $6 billion in budget authority and $6.2 billion in outlays to fund the Forest Service, the fossil fuel program of ERDA, FEA, and most of the agencies within the Department of the Interior.

I support this bill. It is basically consistent with the assumptions of the first budget resolution. In terms of budget authority, the bill stays well within the amount allocated to the Subcommittee on Interior by the full Committee on Appropriations under section 302(b) of the Budget Act.

In terms of outlays, the bill is $59 million above the amount allocated to the subcommittee. I would like to take a moment to discuss this overage and to point out some additional demands that we may be facing later.

My impression is that this overage is at least in part due to the fact that the Congressional Budget Office reestimated some of the items in the President's budget while the Interior Subcommittee was considering this bill.

Given the outlay level in this bill, the $6.2 billion in budget authority and $2.2 billion in outlays held in reserve for contingencies by the Committee on Appropriations when it made the section 302 (b) allocation to its 13 subcommittees will have to absorb an extra $59 million in outlays.

In addition, supplemental requests for appropriations pertaining to this subcommittee may have to be considered. There are two such supplementals that we know of at this time. The first is a Forest Service firefighting supplemental of approximately $100 million in both budget authority and outlays. Based on past experience, we can expect to need such an amount this year. The second possible supplemental is less certain. It concerns synthetic fuels. If the Congress approves a $4 billion loan guarantee program for synthetic fuels, then a supplemental appropriation of $1 billion in budget authority can be anticipated. There would be no outlays involved for fiscal year 1977.

Together the two supplementals total $1.1 billion in budget authority and $100 million in outlays. If we were to relate these amounts to the Subcommittee on Interior's section 302(b) allocation, we see that the remaining $700 million in budget authority would be more than used up. We would find ourselves $400

million in budget authority over the amount allocated by the full committee to the subcommittee.

With outlays—where we already exceed the Interior Subcommittee's allocation—the passage of those supplementals would add to the excess over the allocation by $100 million—bringing the total excess of outlays to $159 million.

I make the point that, in discussing this with the distinguished chairman of the committee (Mr. ROBERT C. BYRD), he indicated that the Senate bill is above the House bill and that some of that $159 million could conceivably be picked up in conference. That is simply informational and not in any way a commitment, as I understand it. That conceivably could happen.

Does the Senator from Alaska want to comment on that?

Mr. STEVENS. I point out to the Senator from Maine that we have added $130.4 million for the Land and Water Conservation Fund. We have $10 million required by the Buckley amendment for outlays for the Alaska Natives land claims fund. It is true that we are some $59 million over our outlay target. We do not know what our colleagues in the House are going to do on these amendments. I could detail about $100 million more that will be in controversy in the conference. I hope that the chairman will consider the outcome of the conference in comparison to the outlay requirements.

There is a little leeway in both the House and the Senate bill as far as what will happen in conference. I cannot predict, but I assume that we are going to be somewhere between the House and the Senate bill when we finish.

Mr. MUSKIE. I understand perfectly, and I am not trying to anticipate what may happen. I simply indicate that possibility to which the Senator refers.

Mr. President, I ask unanimous consent that, at this point in my remarks, a table showing the effect of funding possible supplementals on the section 302 (b) allocation be printed in the RECORD.

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

TABLE I.—*Effect on subcommittee 302(b) allocation of possible supplementals to the Interior and related agencies appropriation bill (H.R. 14231)*

[In billions of dollars]

	Budget authority	Outlays [1]
Subcommittee 302(b) Allocation	6.7	6.1
H.R. 14231	−6.0	−6.2
Remaining allocation	0.7	[2] −0.1
Possible supplementals:		
Forest Service firefighting	−0.1	−0.1
Synfuels	−1.0	------
(Total possible supplementals)	−1.1	−0.1
Excess over allocation if possible supplementals are funded	−0.4	−0.2

[1] Includes outlays from prior year authority.
[2] $59 million.

SOURCE: Committee on the Budget, U.S. Senate, June 26, 1976.

Mr. MUSKIE. It is important, Mr. President—and I want to emphasize this for the benefit of all Senators in the Chamber, and I wish there were more—that the Appropriations Committee's contingency reserve of $6.2 billion in budget authority and $2.2 billion in outlays is being used up. Again I would like to have printed in the RECORD at this point in my remarks a second table which shows the currently estimated demands upon the contingency reserve.

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

TABLE II

[In billions of dollars]

	Budget authority	Outlays
Appropriations Committee reserve for contingencies	6.2	2.2
Federal pay raise	−0.8	−0.7
Items related to the Agriculture Subcommittee:		
Regular bill excess over allocation	−0.1	−0.1
Food stamps supplemental requirement	−1.2	−1.2
Amount of reserve remaining prior to this bill	4.1	0.2
Items relating to Interior Subcommittee:		
Excess in this bill over allocation	-----	−0.1
Possible supplementals in excess of allocation	−0.4	−0.1
Remaining reserve	3.7	0

SOURCE: Committee on the Budget, U.S. Senate, June 26, 1976.

Mr. MUSKIE. The anticipated Federal pay raise supplemental will use $800 million in budget authority and $700 million in outlays of this contingency reserve. The agriculture appropriation bill which was passed by the Senate earlier this week exceeded that subcommittee's allocation by $100 million in budget authority and outlays. That plus the potential $1.2 billion food stamp supplemental may use another $1.3 billion in budget authority and $1.3 billion in outlays. This leaves $4.1 billion in budget authority and $200 million in outlays remaining in the reserve prior to considering this bill.

But as we have noted, this bill uses $59 million in outlays from the contingency reserve. And if the two supplementals come along and require funds, the reserve will be reduced to $3.7 billion in budget authority and, more importantly, the outlay reserve will be used up entirely. So already we are finding that our flexibility later in the year is apt to be severely limited.

I know that the distinguished chairman of the Appropriations Committee (Mr. MCCLELLAN), and the committee's distinguished members realize this and know how tight the outlay situation is for fiscal year 1977.

I hope that my remarks here today will help keep other Members of the Senate aware of how tight the outlay picture is. If we are to stick to the budget targets of the first concurrent resolution, which we adopted only last month, we are going to have to exercise a careful watch on spending, particularly in regard to outlays.

There is one other point I wish to make. I understand that the Committee on Finance has reported, in connection with the debt ceiling legislation, language which has been referred to the Committee on the Budget requiring the Committee on the Budget to reduce, for every dollar departure from the $15.3 billion reduction in revenues, $1 in spending. For those who will be considering that language next week, I ask them to consider the debates that have taken place this week on the appropriations bills that have come before us, including this one. Each of these has been tight. Each of these has been bumping against the ceiling. So any notion that it will be easy to make up any change in revenues by cutting spending, I think, is thrown in considerable doubt by the history of these appropriations bills as they come to the floor.

That is a fine statement of policy that the Committee on Finance would like to have the Senate impose upon the Committee on the Budget. It arises out of a recommendation made by the President last December. Congress rejected it at that time, because we understood, having gone through one year of the budget process, that it is not all that simple. We found it was not with the first budget resolution this year. If we had accepted the President's advice last December, we would have held spending at the $395 billion level. The first concurrent resolution raised that to $412 billion. That represented a cut, not of $28 billion that the President asked for,

but of $12 billion, which was the best that the committee and the Congress could do, taking into account all of these pressing needs. Now, when we are asked to reaffirm that policy in the light of the experience we have already had with this budget, in the light of the experience we are having with these individual appropriations bills, I think the Senate ought to focus on the facts and the realities before the Senate casually adopts a repetition of that policy which we have now tried to live with and implement. It is not possible, Mr. President, and I think that it is appropriate to make those observations this morning.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, the subcommittee as well as its chairman, the distinguished Senator from West Virginia, (Mr. ROBERT C. BYRD), has been most generous to the State of Montana through its actions on H.R. 14231, the Interior and Related Agencies Appropriations bill for fiscal year 1977.

In particular, I am most grateful for the committee's continued strong support for the Energy Research and Development Administration's national magnetohydrodynamics — MHD — program. I have noted that this bill contains a $37,986,000 appropriation for the nationwide MHD program operating expenses and a $6,700,000 plant and capital equipment appropriation for construction of the Component Development and Integration Facility in Butte, Mont. I urge the committee to stand firm behind the Senate MHD program appropriation in conference wtih the House. Although this appropriation will keep the program moving ahead, any reduction will hinder the progressive development of this promising coal conversion technology.

Additionally, I have noted the committee's action appropriating $21 million for the national fuel cell program and $5 million for the small grants program for appropriate technology. Along with Senator GLENN, I personally discussed this detail with Senator ROBERT C. BYRD. I strongly support these important conservation programs.

Finally, Mr. President, I would like to explore in more detail committee report language concerning commercial-sized synthetic fuel demonstration plants. I note and support the committee's concern over ERDA's apparent inability to overcome administrative and technical obstacles hindering construction and operation of such demonstration plants at the earliest possible time. The report states that:

> The Committee believes that at least one plant from each of the major synthetic fuel areas is needed in order that they can be used as a benchmark against which cost-shared or industry-owned plants can be measured.

I ask my colleague, (Mr. ROBERT C. BYRD) the subcommittee chairman, if the major synthetic fuel areas referred to in the report are liquefaction, high Btu coal gasification, low Btu coal gasification and modular oil shale plant development?

Mr. ROBERT C. BYRD. Mr. President, generally speaking, the distinguished majority leader is correct.

Mr. MANSFIELD. The committee directs ERDA to expeditiously explore alternate processes and approaches, including Government owned contractor operated plants. Is it the committee's intent that ERDA immediately build these demonstration plants using first generation or first generation improved technology in order to shake out the bugs in the process prior to the testing of already planned second generation technology plans which are expected to come on line in the early 1980's?

Mr. ROBERT C. BYRD. It is the intention of the committee to move this along as rapidly as possible, and that is precisely why the language just cited by the Senator from Montana was included in the committee report. It is obvious that ERDA's present schedule will not move this Nation toward a more independent energy posture within what the committee considers a reasonable time. The committee wants to move ahead with this job and we want ERDA to give us a more accelerated schedule.

Mr. MANSFIELD. Is it reasonable that in the testing through this demonstration plant process, particularly in the high Btu coal gasification area, that every attempt should be made by ERDA to build one plant operating on lignite coal and one plant to operate on subbituminous coal?

Mr. ROBERT C. BYRD. Mr. President, this would appear to be a good operating policy.

Mr. MANSFIELD. I thank the chairman of the subcommittee.

I am especially pleased to note the report language indicating that existing Federal facilities should be utilized when possible. As chairman of the Military Construction Appropriations Subcommittee, I am acutely familiar with the many Defense Department facilities that have been closed around the country, some for more than 10 years, for which no acceptable reuse has been found. Given such Federal facilities with built-in alleviation for the major socioeconomic impacts associated with the development of a large demonstration plant, located in an area where there is a present or expected critical shortage of a needed energy supply, and provided that the environmental restraints are insignificant, I believe it would be in the best interest of the taxpayer and the technology development that such Federal efforts be coordinated. I hope that the Defense Department and ERDA work closely together so that acceptable reuse may be found for many of the empty Federal facilities across the country.

I thank the committee, especially the distinguished chairman, Mr. ROBERT C. BYRD, and the ranking Republican member, Mr. STEVENS, for their efforts, and I wholeheartedly support passage of H.R. 14231.

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

May I say that the language in the committee report had been put into the report at the request of the distinguished majority leader, and I would certainly hope and expect ERDA to carry out the recommendations included in the committee report.

Mr. MANSFIELD. Mr. President, I am once again deeply and personally grateful to the distinguished assistant majority leader.

Mr. STEVENS. Mr. President, I have one amendment. Does the Senator from Arkansas seek time?

Mr. BUMPERS. I wanted to speak on the energy institutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator such time as he may desire.

Mr. BUMPERS. Mr. President, several months ago the distinguished Senator from Idaho (Mr. CHURCH) introduced a bill in this body which was considered by the Interior Committee and which was later incorporated into the ERDA authorization bill which we passed yesterday.

The concept of the so-called Church bill was to establish energy institutes in at least one institution of higher learning in virtually every State in the country. The idea was that each State could conserve energy in a very unique way that would be peculiar to that particular State.

I thought the concept had great merit. At about the same time, the distinguished Congressman from the State of Arkansas (Mr. THORNTON) introduced a bill in the House which he referred to as the energy extension bill. I introduced the same bill in the Senate and it was referred to the Committee on Interior.

During hearings over there, and while the distinguished Senator from Idaho was campaigning for President, we held hearings and agreed to coordinate the two, that was, to galvanize the two bills into one. We first called it the Church-Bumpers approach, but while he was gone I changed the name of it to the Bumpers-Church approach.

[Laughter.]

But it was essentially this, that these institutes for energy conservation in the various universities and colleges around the country would impart the benefit of their research to various volunteer and other public agencies to disseminate the information to the homeowners, to the businesses, and to the agricultural interests of the State.

The extension part of this would work almost identically to the way the cooperative Agricultural Extension Service operates. In my State the Department of Agriculture does extensive research particularly in the field of rice, cotton, and soybeans. The information they gain through this research is given to the cooperative Extension Service which, in turn, takes it on a door-to-door basis to the farmers in my State.

I use my State as an illustration because it is the same way in the other 49 States.

Extensive studies on an energy extension concept show that within 24 months the United States, through a massive conservation effort, with the expenditure of a very small amount of money could conserve the equivalency of the Alaskan pipeline.

Less than 15 percent of this appropriation today goes to conservation. Last week this body cavalierly passed an amendment to the FEA extension which will cost the United States $850 million over the next 4 years.

The distinguished Senator from Maine (Mr. MUSKIE), who is chairman of the Budget Committee and who has been ever diligent in trying to keep this body in line in meeting the targets of the first concurrent resolution, and I engaged in a short colloquy at that time in which he said that these giant spending amendments, which we adopt here with very little budgetary restraint, could subsequent to the second concurrent resolution cause some ongoing absolutely vital programs to be subject to a point of order.

I voted against that energy conservation amendment that was offered the other day for a number of reasons, none of them dealing with the merits of that bill, but one that we had not held hearings in our committee, the Banking Committee had not held hearings on it, the Commerce Committee had held virtually no hearings before it reported the bill. So here was a $850 million approach which everybody championed. Who is against conservation?

But the point I am trying to make is I honestly felt that that amendment was another typical throw-money-at-the-problem approach.

Here is a very small, modest program which our committee unanimously adopted and appropriated $25 million for, and which has been cut in half by this appropriation. We authorized $10 million for the energy institute concept and $15 million for the energy extension service.

The distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and I have had a conversation this morning because I had originally intended to offer an amendment to restore the full amount of the authorization, but he has been most cooperative in agreeing to look at it in another 3 to 4 months from now to see how we are getting along with the program.

The other part that I wanted to restore was the small grants program. If I have one objection to the way the Energy Research and Development Administration is carrying on in solving the energy problems in this country, it is that they see everything in terms of giant technologies. The ERDA authorization bill, which we passed yesterday, carries $6.5 billion in both nuclear and nonnuclear research. As I said a while ago, less than 15 percent—and I think the figure may be less than 10 percent—is dedicated to the area of conservation where we can make the most dramatic impact on fuel problems of this country than in any other area.

So, Senator ABOUREZK, the distinguished Senator from South Dakota, and I championed installing a small grants program within ERDA so that little people in my State and yours would have an opportunity to go to ERDA with applications for significant energy savings programs or even an energy alternative program, and have an opportunity to be heard, because right now everything is in terms of billions to convert coal to fuel, billions for nuclear research, and very little to such things as biomass conversion, wind energy, energy storage.

So, Mr. President, I want to thank the Senator from West Virginia for allowing me to say these few things about my philosophical feelings and about the energy problem, to express my very strong feeling about the approach of the small grants program and, more especially, toward the research institutes and extension service.

For us to refuse to appropriate $25 million for a program that could, I am fervently convinced, save this country the equivalent of 2 million barrels of oil per day within 2 to 3 years, seems to me like the classic misplaced programs which we so often adopt here.

I hope that within 3 or 4 months the budget will allow us to reconsider restoring these three very small, highly valuable programs to their full strength.

I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I fully sympathize with the viewpoint of the distinguished Senator from Arkansas. I too support the conservation programs.

Our problem here is that the authorization bill only passed the Senate yesterday, and the program supported by the Senator from Arkansas (Mr. BUMPERS) are all subject to conference approval. The request for these funds only reached the attention of the subcommittee on Wednesday evening, the eve of the markup by both the subcommittee and the full committee on Thursday. Yet even in the face of those two facts, the subcommittee and the full committee bent over backward and allowed 50 percent of the proposed authorizations.

The committee has very little information on these programs. Normally, the Committee on Appropriations would hold hearings on newly authorized programs after the enacting authorization has been implemented.

In this case, as I pointed out, the proposed authorization only passed the Senate yesterday, and here we are allowing 50 percent of that proposed authorization in this bill when the committee has not had even the opportunity to conduct a hearing.

And even more serious problems are the budget authority and outlay ceilings. At this point, we are about $50 million over the outlay ceiling, as we discussed earlier.

Looking down the road in anticipation of possible supplementals on Forest Service firefighting, which will probably amount to something like $100 million, and synthetic fuels commercialization, looking at this bill as it stands before us today and anticipating supplemental requests, we are faced with the prospect of being over the outlay ceiling to the tune of $200 million and over the budget authority ceiling to the tune of $400 million.

That is really our basic problem, may I say to the distinguished Senator.

I say to the Senator from Arkansas that I assure him I personally will be glad to take another look at those programs when we take up the supplemental. But I want to make it clear that even then, we may have problems with our budget authority and outlay ceiling.

So with that understanding, that we take a look at it at that time, after we can conduct hearings on it, the Senator has my assurance of my sympathetic understanding and support, conditioned, however, on the outcome of those hearings, but mainly on our budget authority and outlay ceilings problem at that time.

It may be that in conference with the House that the Senate will yield on some items which will bring us more clearly into line with those ceilings. Perhaps this will help to safeguard our situation as we anticipate these supplementals coming along.

Hopefully, as the result of the conference, we will be in better condition than we are now. But I thank the Senator for not pressing this today. I think it would be unwise to press it today in view of the spending ceiling problem and the fact that we do anticipate supplementals on Forest Service firefighting and synthetic fuels commercialization.

So with that understanding, we will do the best we can at that time. But I hope the Senator will understand and agree that even at that time our situation is going to have to be largely dictated by the budget authority and outlay ceilings situation at that time.

Mr. MUSKIE. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. First, I ask unanimous consent that Karl Braithwaite and John Freshman of the Public Works Committee staff be granted privilege of the floor during the discussion on this and the HUD appropriation bill.

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

Mr. MUSKIE. Mr. President, I would like to make two points. One is with respect to the reference the distinguished Senator from Arkansas made in the discussion he and I had earlier this week.

That is a point that all Senators should bear in mind. The budget resolution sets ceilings. It does not set priorities under those ceilings.

So the first programs to come along are the programs that will find easier funding. The last programs to come along as we approach the ceiling are going to have the toughest sledding, as this colloquy indicates.

So that as we approach the first appropriation bills, we ought not ignore the priorities issues that are involved within functions, and that the Senate ought to focus on. The Budget Committee does not control that and we would not presume to try.

But the Senator is absolutely right, pointing to the fact that in funding the first programs to come along we may inadvertently hurt some of the higher priority programs that happen to come along down the road on the calendar.

I also appreciate the obligations of the distinguished Senator from West Virginia with respect to the probability of reducing the numbers in this bill as a result of the conference between the House and the Senate.

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

UP AMENDMENT NO. 111

Mr. STEVENS. Mr. President, I have an amendment at the desk and ask for its consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the end of the bill, add a new section as follows:

SEC. 306. Pending the passage by the Congress of a National Forest Management Act, notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476) pertaining to timber harvest, and, consistent with the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act (74 Stat. 215, as amended) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), the Secretary of Agriculture may expend funds under this Act for sale, at not less than appraised value, of trees, portions of trees, or forest products located on National Forest System lands in Alaska.

Mr. STEVENS. Mr. President, the amendment I am proposing would allow the Forest Service to continue to expend funds for the management of that portion of the Tongass National Forest affected by the so-called Monongahela decision as interpreted by the Alaska courts. The Senate Agriculture and Forestry and Interior and Insular Affairs Committee have reported a major forest management bill to the Senate floor and I am hopeful that this body will pass this bill later this session. However, there is much uncertainty whether the House will pass a bill this session and, therefore, a significant portion of the Tongass could remain withdrawn from any timber harvesting for another year.

The problem we face in Alaska is unique in that an Alaskan court applied the Monongahela ruling to a portion of an existing timber sale; the 50-year contract made to Ketchikan Pulp Co. in 1951. Unless some relief is provided that would allow continued operation in that portion of the sale, the company is going to be unable to meet its pulp and saw timber requirements, resulting in a layoff of a large number of employees this year. KPC provides the bulk of the employment in the Ketchikan area and this would severely impact this small community.

Let me state clearly, the amendment I propose would allow the Forest Service to continue to manage, for this fiscal year only, pending the passage by the Congress of a National Forest Management Act.

Mr. ROBERT C. BYRD. Mr. President, is this a language amendment only?

Mr. STEVENS. Yes, just a language amendment.

Mr. ROBERT C. BYRD. It does not involve any funds?

Mr. STEVENS. No funds.

Mr. ROBERT C. BYRD. To apply only to Alaska?

Mr. STEVENS. To apply only to Alaska.

This would permit the continued management of the Tongass for timber harvesting under the same strict and exacting practices previously imposed. All timber cutting would continue to be subject to the requirements of the Multiple-Use Sustained-Yield Act, the Forest and Rangeland Renewable Resources Planning Act, and NEPA.

Mr. HASKELL. Will the Senator yield for one or two questions?

Mr. STEVENS. Yes.

Mr. HASKELL. The Senator talked about this matter. It is my understanding that the court in Alaska, as opposed to the court in West Virginia involving the Monongahela decision, not only barred future sales contracts, but actually put an injunction on the performance of an existing contract, is that correct?

Mr. STEVENS. That is correct. It is applied differently in Alaska, because of our own decision in the Zieske against Butz case.

Mr. HASKELL. And it is my understanding that this deals only with the coming fiscal year. Any resolution of the problem after that year would have to depend upon future legislation, am I correct?

Mr. STEVENS. That is correct. This applies to the use of the funds under this bill for the Forest Service for this year only.

Mr. HASKELL. And any future use would have to await further legislation?

Mr. STEVENS. That is correct. We want the passage of the Randolph-Humphrey bill to solve the problem permanently.

Mr. HASKELL. I thank the Senator.

Mr. STEVENS. All timber sales, including the 50-year contract in Alaska are subject to the preparation of environmental impact statements. An EIS has been prepared for the area affected by Zieske against Butz.

The court in handing down the Zieske decision did not rule against the Forest Service in any of the environmental issues brought by the plaintiff. The court held that all environmental requirements and safeguards had been met. It simply found that the basic Organic Act was inadequate for the plans that the Forest Service had underway.

In the forest management bill that has been reported to the floor the inadequacies of the Organic Act are corrected. The problem is that we will not be able to get this bill to the President this year.

During the hearings before the Interior Appropriations Subcommittee the matter of the Zieske decision was brought up and it is the opinion of the Forest Service that a congressional directive would be necessary for any timber operation to continue in the area affected by the ruling.

Mr. BUMPERS. If the Senator will yield, I was not aware of the amendment which has been offered. Senator HUMPHREY and I have done perhaps more work on the forest management bill than anyone else. I would inquire of the Senator if he intended his amendment to overcome the Tongass decision.

Mr. STEVENS. The intent of the amendment is to permit the cutting for this year only of the Tongass Forest notwithstanding the Zieske decision which was brought down by our court and which indicates that the Organic Act should be amended as the Senator's bill would amend it.

Mr. BUMPERS. Is the effect of that to allow the Forest Service to continue the practices they have engaged in in the past with relation to that forest?

Mr. STEVENS. Yes, to the extent that it is subject to the environmental impact statements that have been approved by the courts. In my statement I pointed out that the court in that case approved the environmental impact statements for that portion of the Tongass which is to be cut this year. This would allow that cutting to continue notwithstanding the Zieske decision, pending the passage of the Senator's bill.

Mr. BUMPERS. How many acres does that involve? How many board feet? How many million board feet are involved and how many acres?

Mr. STEVENS. The total would be 8.25 billion board feet over the 50-year contract. It is in that portion of the Tongass that is affected. They will not cut it all this year.

Mr. BUMPERS. What would be the effect of the Senator's amendment if the so-called Humphrey bill were to pass Congress, which I believe it undoubtedly will, in some form, within the next 90 days?

Mr. STEVENS. I would be hopeful that it does. The amendment says until the passage of this act these practices can continue, but no longer than 1 year.

Mr. BUMPERS. What about the right of contract? Is the Senator talking about contracts that were in existence before this court decision?

Mr. STEVENS. That is correct.

Mr. BUMPERS. And they could continue the performance of those contracts?

Mr. STEVENS. That is correct.

Mr. BUMPERS. Could they continue the performance of those contracts subsequent to the passage of the Humphrey bill?

Mr. STEVENS. No. Well, subject to the terms of the Humphrey bill. As I understand it, it requires renegotiation of some of those contracts. This is offered for the purpose of assuring that the funds in this bill can be spent by the Forest Service on the Tongass Forest for the sales that were planned, consistent with the law and consistent with the Senator's bill if it is enacted. If it is not enacted, those sales would have to come to a halt in Alaska only, as I understand it. This would permit them to continue through the balance of this fiscal year where the funds are appropriated for the Forest Service in this bill. Hopefully, we would have the passage by the Congress of the Senator's bill either this year or early next year.

Mr. BUMPERS. Has the Senator consulted with Chief McGuire of the National Forest Service?

Mr. STEVENS. My staff has, yes. In the Interior Committee hearings I specifically asked what would happen if we did not get a direction from the Congress to continue. As I pointed out in my statement, the Forest Service agrees with me that it is necessary in Alaska only to have some direction by Congress

in order to permit the timber operation to continue, if the Senator's bill is not enacted.

Mr. BUMPERS. I say to the Senator that I am not going to ask for the yeas and nays, but I am going to oppose the amendment. I do not sense that kind of urgency. I see no reason, if we accept that amendment, not to accept a similar amendment to vitiate the Monongahela decision.

Mr. STEVENS. It is my understanding this affects the Monongahela decision only to the extent it has been interpreted by the Alaska court in the Zieske decision. We are seeking to permit the continuation in Alaska of existing contracts for 1 year. The Monongahela decision affected future contracts, as I understand it, in the hardwood area. This is the Tongass area which has a long-term contract providing for annual cutting. We are seeking to continue this cutting for this period only, the scheduled annual cutting already subject to an environmental impact statement that was approved by the court.

The court did find that there was a defect in the Organic Act which would prohibit continued cutting unless Congress modified that act, which I am hopeful we will do. I am working with the Senator from Arkansas for that purpose. But unless we put something in here, the funds made available for the Tongass Forest will not be able to be spent unless the Senator's bill passes before the Congress adjourns.

Mr. BUMPERS. Is there anything in the Senator's amendment that could remotely be construed to affect the Monongahela?

Mr. STEVENS. No.

Mr. BUMPERS. It is confined exclusively to the Tongass?

Mr. STEVENS. It is confined exclusively to the National Forest Lands System of Alaska.

Mr. BUMPERS. As I said, I hope we will be able to take up the Humphrey bill very quickly. The House Committee on Agriculture is holding hearings on it now. I do not know how much progress they have made. I am as anxious as the Senator from Alaska to resolve this critical problem, but I am reluctant to agree to temporary matters when we know a final solution is in the offing.

Mr. STEVENS. I agree, but we have 3,500 people in southeastern Alaska completely dependent upon continued operations in that forest at this time. If that forest alone suffers because of the interpretation of the Zieske decision as applied to the Organic Act, those people will be laid off. We seek only to continue the existing contract in the existing manner approved by the court for the balance of this time, until the Senator's perfecting law is passed. We are supporting that bill. As the Senator knows, we are very interested in the passage of that act. I would appeal to the Senator to understand what is going to happen in this area if funds are provided, but the sales cannot be held in this fiscal year of 1977, if the bill does not pass this Congress.

Mr. BUMPERS. The reason I will oppose it is because it sets a precedent. For example, if the Senators from West Virginia, North Carolina, South Carolina, or Virginia should offer a similar amendment to any bill coming through here within the next week or two, the Senate would be very hard pressed to repudiate such an approach. For that reason, I would have to vote "no" to the Senator's amendment.

Mr. STEVENS. I understand the Senator's reluctance and his support of the other bill. I join in his support of the bill.

Mr. MANSFIELD. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. MANSFIELD. Mr. President, does this cover the area around Ketchikan which appeared in the press some 2 or 3 weeks ago, which indicated that if something was not done this sole employer in that area would have to shut down completely?

Mr. STEVENS. Yes. It is also involved in the EPA problem. This is the exact area that the Senator mentioned.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

UP AMENDMENT NO. 112

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to correct certain printing errors, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendment No. 102:

On page 10, line 18—

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with, and that the amendments be considered en bloc.

Mr. ROBERT C. BYRD's amendments, en bloc, are as follows:

On page 10, line 18, add the following House Language in linetype: *Provided*, That the National Park Service shall not lease the facilities located at 900 Ohio Drive in the District of Columbia on any other basis than the fair market rental value generally pertaining for such premises in the area.

Page 11, after line 14: Of the amount appropriated under this section, $111,000 shall be available for the payment of obligations outstanding on the date of enactment of this Act which where incurred in the development of the Chamizal National Memorial in the State of Texas.

Page 17, after line 2: *Provided further*, That the full-time permanent employees hired by the Bureau of Mines to staff the mining research center at Carbondale, Illinois, shall not be counted against or considered to be a part of my employment ceiling assigned to the Department of Interior.

The ACTING PRESIDENT pro tempore. Without objection, the amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill (H.R. 14231) was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

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

Mr. ROBERT C. BYRD. I yield the Senator from New York 3 minutes.

Mr. JAVITS. Mr. President, I am very glad that I got here in time to speak on the question of the appropriation the Senate is now considering, because it includes appropriations for the National Endowment for the Arts and the National Endowment for the Humanities.

I have no challenge to the levels recommended by the committee. On the contrary, the subcommittee headed by the Senator from West Virginia (Mr. ROBERT C. BYRD) has recommended figures which are about $2 million for each under the President's budget, and therefore I think must be considered as meeting the recommendations of the committee, in substance, and the recommendations of the President.

But, Mr. President, I wish to call attention to the fact that the recommendation of the President and the action of the committee include the strong endorsement of Federal Government expenditure in these cultural areas by singling out these two endowments as deserving an increase over the previous year's levels, which is something pretty rare in appropriation bills today. There are very few items which were considered important enough or achievement-oriented enough to deserve increases in a year in which the prevailing call must be, insofar as we can, for decreases.

Mr. President, I rise to call attention to that fact in terms of the successful mission and the increasing stature and recognition of these endowments, and I am delighted to see in the Chamber the Senator from Washington (Mr. MAGNUSON), who very early on, years ago, joined with me and was heavily responsible, as were others here, including the former Vice President now our colleague from Minnesota (Mr. HUMPHREY), the former Senator from Pennsylvania (Mr. CLARK) who is no longer with us, and other Senators——

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. JAVITS. I ask for 2 additional minutes.

Mr. ROBERT C. BYRD. I yield the Senator from New York 2 additional minutes.

Mr. JAVITS. In bringing about these statutes which have been so terribly beneficial, especially on the local level, which is the acid test, and also to testify to the excellence of the leadership period of Nancy Hanks, who has made such an enviable reputation on Capitol Hill, and Ronald Berman in terms of the humanities.

Mr. President, I point out that we are

just about to agree upon in conference, or work on in conference, new authorizations for both endowments. These authorizations may change the nature of the appropriations which we are asking for. This statement, I hope, Mr. President, will serve as a suitable basis in certifying to the fact that here are increases which are recommended by the President and were earned by performance in terms of individual American communities, so that a broader look, based upon the new authorizations, may be taken by the Appropriations Subcommittee dealing with this effort.

I point out that our new authorizations will deal with both the major nongovernmental contributions, which we hope will be raised because of the excellence of the projection, and also a larger governmental contribution, again because it is earned and deserved.

Mr. President, among its many provisions, the appropriations bill for Interior Department and related agencies includes funding for the National Endowment for the Arts and the National Endowment for the Humanities. The levels which the committee indicates in its recommendations to the Senate on H.R. 14231 would represent a modest increase in available funds when compared with the previous year level. These levels, which are virtually identical to the House passed amounts, are higher than any previous level of Federal support for cultural activities.

I am pleased to see the Senate continue its wise policy of gradually expanding funds available for these important purposes. Since authorizing the first proposal for an arts endowment many years ago, I have always firmly advocated an increased Federal responsibility in this area. Because these levels represent a new high in Federal funding, I intend to vote for them.

However, I am concerned that these levels represent a reduction from President Ford's fiscal year 1977 budget request for the Endowments. Specifically, the President has continued to show his strong endorsement of Federal Government expenditure in cultural activities by singling out the National Endowment for the Arts and the National Endowment for the Humanities as being unusually meritorious and thus deserving an increase over the previous year's level. I need not remind my colleagues how few other items were considered sufficiently important by the President to recommend increases in fiscal year 1977. Notwithstanding this request, both the House and the Senate committee levels are lower than the President's request.

I am the ranking minority member on the Labor and Public Welfare Committee and its Subcommittee on Arts and Humanities, which have jurisdiction for the authorizing legislation for the endowments. Both the Senate and House have recently passed similar legislation reauthorizing the activities of the endowments for 4 more years. These two bills are currently awaiting conference.

It is particularly notable that both the House and Senate bills contain fiscal year 1977 appropriation authorization levels which are consistent with the fiscal year 1976 authorizations; that is, approximately $250 million. Despite the long-standing advocacy or committee members in each House for increasing expenditures in these important areas, each committee has recommended and each House has passed a bill which shows restraint and realism regarding authorized funding levels. It is also notably that both bills contain new provisions within the current $250 million level emphasizing special needs. The conference committee will resolve differences between the bills, but will return to the respective Houses a package which includes new challenge grant authority and new museum services authority. The conference may also choose to report other additional priorities which are contained in either bill. Thus I am hopeful that shortly following the anticipated Presidential signature of this authorization legislation, the Appropriations Committee can review the needs of our cultural institutions in the context of new legislation. These considerations can be part of the earliest available supplemental appropriation in fiscal year 1977.

Mr. President, in closing, I wish to reemphasize my support of this legislation because it increases funds available to the Arts and Humanities Endowments. I hope that all my colleagues will support this legislation. When and if new provisions affecting cultural activities become law, I hope that the Appropriations Committee will again turn its attention to the needs of the cultural institutions of our Nation.

Again I thank Senator BYRD and his colleagues for the fine attitude, cooperation, and willingness to reward excellence which they have shown on this appropriation.

Mr. ROBERT C. BYRD. I thank the Senator, and I yield to the Senator from Michigan.

Mr. PHILIP A. HART. Mr. President, this will be the last time, in all likelihood, that I shall be present when funds are made available for certain of the national park and forest programs. Last June when I announced I would not seek reelection, I listed some of the items which I hoped could be accomplished in the months remaining to me. Action taken by the Senate Appropriations Committee this week brings one of the goals—assurance of the completion of the Sleeping Bear Dunes National Lakeshore in Michigan—within sight.

I rise to thank most especially the chairman of the committee, the able Senator from West Virginia, for his and the committee's action in increasing substantially the sum made available for land acquisition at the Sleeping Bear Dunes Lakeshore in Michigan.

This is an effort that began in 1960, became as controversial as busing and handguns in Michigan, and created at least one recall campaign for the Senator now speaking. I would be very uncomfortable if we had failed, before I left this body, to sustain the money that would result in delivery on the promise we made in 1960.

The recommendation of the Appropriations Committee for a $12,330,315 appropriation for land acquisition at Sleeping Bear would move the program at the park full steam ahead in the coming fiscal year.

It would also put to rest the belief among some that only in the distant future will Sleeping Bear become a working reality. It will reassure the doubters that the Government can meet its promises, even though fulfillment may sometimes come more slowly than we who promised would have preferred.

I hope the Senator from West Virginia will find time to see the Bear some day, and he will know we did right.

The committee's inclusion in this bill of $1 million to meet the Federal share for the development of the Father Marquette National Memorial in Michigan's Upper Peninsula is also gratefully acknowledged. This project, jointly funded by the State of Michigan and the Federal Government, is already underway and the grant will bring to fruition an idea nurtured by the Michilimackinac Historical Society for an appropriate commemoration and given substance by the Father Marquette Tercentenary Commission and the Congress.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his comments, and I assure him I look forward to that day. The committee has been very cognizant of the interest of the distinguished Senator from Michigan, and for that reason has attempted to be of support.

ADDITIONAL STATEMENTS

Mr. PELL. Mr. President, I am pleased to note that in the legislation we are considering, H.R. 14231, the appropriations recommended for the National Endowment for the Arts and the National Endowment for the Humanities are at historic highs. These appropriations, in the program areas involved, represent an increase of $8 million over last year's figures. I commend the committee for its wisdom and foresight in making possible an increase in funding.

As chairman of the Special Subcommittee on Arts and Humanities since its inception more than 10 years ago, I also wish to note that the appropriations in this area being considered are far below the current level of authorization. This year's authorized amount for the two endowments is $252 million, or $82.5 million more than the appropriations recommended in this legislation.

Mr. President, now awaiting conference action between the Senate and House of Representatives is legislation reauthorizing the arts and humanities program for the next 4 fiscal years. This new legislation contains features which I am convinced are highly desirable. These features include opportunities for both endowments to expand the present scope of their initiatives, and to do this within presently authorized ceilings. In fact, for fiscal 1977 the total authorized for the arts and humanities program is $2 million less than the present authorized level.

We look forward to an effective resolution of our differences with our col-

leagues in the House on the reauthorizing legislation (H.R. 12838).

We also look forward to funding at the earliest possible time for the areas for added initiatives we have prepared. Especially meaningful is a program to further assist our Nation's museums, and a program to provide special challenge grant opportunities for the endowments, so that the Federal investment can serve to engender increasing non-Federal support for our cultural life and well-being.

It is important that the funding levels we are considering today be fully approved. I am pleased to add my support to this concept. But I want to emphasize that added funds for these important programs are urgently needed, and that they are addressed in the new legislation I have mentioned, so that they may soon be considered.

The ACTING PRESIDENT pro tempore. Is all remaining time yielded back?

Mr. ROBERT C. BYRD. All remaining time is yielded back.

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

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is, Shall the bill pass?

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. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) and the Senator from Indiana (Mr. BAYH) are absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea".

Mr. HUGH SCOTT. I announce that the Senators from Tennessee (Mr. BAKER) and (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 61, nays 4, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—61

Abourezk	Glenn	Muskie
Allen	Gravel	Nelson
Bartlett	Hansen	Nunn
Beall	Hart, Philip A.	Packwood
Bellmon	Haskell	Pastore
Bentsen	Hathaway	Pearson
Biden	Hollings	Pell
Bumpers	Huddleston	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Johnston	Schweiker
Church	Kennedy	Scott, Hugh
Clark	Magnuson	Sparkman
Cranston	Mansfield	Stevens
Culver	Mathias	Stevenson
Dole	McGee	Stone
Durkin	McGovern	Taft
Eastland	McIntyre	Thurmond
Fannin	Metcalf	Young
Fong	Morgan	
Ford	Moss	

NAYS—4

Byrd, Harry F., Jr.	Helms	Scott, William L.
	Roth	

NOT VOTING—35

Baker	Griffin	Mondale
Bayh	Hart, Gary	Montoya
Brock	Hartke	Percy
Brooke	Hatfield	Stafford
Buckley	Hruska	Stennis
Burdick	Humphrey	Symington
Chiles	Inouye	Talmadge
Curtis	Laxalt	Tower
Domenici	Leahy	Tunney
Eagleton	Long	Weicker
Garn	McClellan	Williams
Goldwater	McClure	

So the bill (H.R. 14231), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

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

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

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

The motion was agreed to; and the Chair appointed Mr. ROBERT C. BYRD, Mr. MCCLELLAN, Mr. MCGEE, Mr. MONTOYA, Mr. CHILES, Mr. MANSFIELD, Mr. STEVENS, Mr. YOUNG, Mr. HATFIELD, and Mr. BELLMON conferees on the part of the Senate.

Mr. MCGEE. Mr. President, I support passage of this measure. The legislation is responsive to the needs of our country, not only in the areas of energy and recreation, but in the equally vital conservation and natural resource production programs that are included in the bill.

I wish to thank the distinguished Senator from West Virginia, Mr. ROBERT C. BYRD and the distinguished Senator from Alaska, Mr. STEVENS, for their impartial and able management of this legislation.

Mr. CULVER. Mr. President, the 1977 Interior appropirations bill which we have just passed provides $225,000 for the preservation of the steamship *Bertrand* archive at DeSoto Bend National Wildlife Refuge in western Iowa. This extensive and diverse collection of Civil War era artifacts is a valuable resource not only for professional historians and archeologists but for all Americans who are interested in their Nation's past. As one who has visited the collection and been impressed with its variety and quality and who has been active in the efforts to see it properly conserved and displayed at DeSoto Bend, I am gratified by the action which the Senate has taken.

Briefly told, the story of the *Bertrand* is this. In 1865, the *Bertrand*, laden with supplies for frontier mining camps, left St. Louis for Fort Benton, Mont. Barely 2 weeks later, it ran afoul of snags which plagued traffic on the Missouri River, and sank almost immediately. Although the crew and the miners, merchants and fortune seekers who made up its passenger list escaped the sinking without loss of life, the entire cargo of the *Bertrand* was lost. Silt soon covered the wreck and as the fickle Missouri changed course many times in the next century, the steamship was forgotten.

In 1968, two resourceful Nebraskans, Sam Corbino and Jesse Pursell, armed with contemporary newspaper accounts, old maps, ingenuity, and patience, located the hull of the *Bertrand* on the grounds of DeSoto Bend National Wildlife Refuge, some 500 feet from the current Missouri River channel. The treasure trove of mercury, whiskey, and gold which they sought was not to be found. What they did discover was probably more valuable. Finding the *Bertrand* was like walking into an 1865 general store. All the materials needed to sustain life in a frontier community—from sod-busting plows to foodstuffs to kegs of gunpowder—remained in a remarkably high degree of preservation. It was readily apparent to observers that the *Bertrand* artifacts could tell the exciting story of frontier life, of the river transportation along the Missouri, and of the winning of the West. The collection promised to be an important archive for professional scholars, but more importantly, a source of pride and a symbol of their heritage to the people of western Iowa and eastern Nebraska.

This promise, however, was threatened in two ways. To begin with, the artifacts were in serious danger of immediate deterioration. Locked in its fresh water grave, the *Bertrand* cargo had survived the ravages of time. But exposure to fresh air meant that many of the 2 million recovered items would rust or

crumble or disintegrate unless expert treatment could be quickly provided. Second, there were suggestions that the collection should be moved or broken up to be distributed to museums in other locations across the country.

It was evident to me and many other members of the congressional delegations from Iowa and Nebraska that these dangers had to be resisted. Consequently, we have insisted that the integrity of the *Bertrand* archive must be maintained and that artifacts not be scattered among several museums. The *Bertrand* saga deserves to be told and illustrated in its natural and proper setting at DeSoto Bend. I am pleased that there are presently no plans to move any of the artifacts.

In addition, of course, it is essential that the trained personnel be hired and the needed equipment purchased to prevent deterioration of items in the collection. Last year, with the assistance of the chairman and ranking minority member of the Interior Subcommittee of the Senate Appropriations Committee, I obtained an emergency allocation of $25,000 to provide for the most pressing needs.

The $225,000 which has now been appropriated by both the House and Senate will complete the funding needed to stabilize the condition of the *Bertrand* artifacts. It will also provide for the architectural and engineering survey and design for a permanent museum to be built at DeSoto Bend. Such a museum would serve historians and other scholars and average citizens from across America, thousands of whom have already visited the *Bertrand*, in their attempts to learn more about our national past. I am hopeful that the action which we have taken today will ultimately make such a permanent facility a reality.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14233, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14233) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. Debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Maryland (Mr. MATHIAS), with 30 minutes on any amendment and 20 minutes on any debatable motion, appeal, or point of order.

Mr. PROXMIRE. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senate is not in order. The Senate will be in order.

Mr. MOSS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Utah without losing my right to the floor.

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

Mr. MOSS. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Aeronautical and Space Sciences have the privilege of the floor during the Senate's consideration of H.R. 14233, the HUD-independent agencies appropriations bill: Gilbert Keyes, Craig Peterson, Craig Voorhees, James Gehrig, and Mary Jane Due.

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

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

Mr. PROXMIRE. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that a member of my staff, Steven Pearlstein, may have the privilege of the floor during the consideration of this measure and votes thereon.

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

Mr. PROXMIRE. The HUD-independence agencies appropriations bill for fiscal year 1977, as reported by the Senate Appropriations Committee, provides total new budget authority of $43,331,900,000, which is $349,170,000 above the amount contained in the House-passed version of the bill, about $2 billion below the budget estimate and almost $10 billion below the appropriations of last year.

This legislation provides funding for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation and a number of smaller agencies, offices, and councils.

The most complex programs funded by this legislation are those of the Department of Housing and Urban Development. They are particularly difficult to come to grips with because of the provision of the new budget authority, in the case of annual contributions for assisted housing, over periods as great as 40 years. In fact, the major reason this bill is so substantially below the budget estimate is the committee's decision to concur with the House in reducing funding for assisted housing, including the section 8 program, well below the budget estimate. Although the reduction in terms of annual payouts under contributions contracts is $234,600,000, the reduction over the multiyear period that those contracts run amounts to $1,702,500,00.

This substantial reduction is due in large part to an assumption we shared with the House that the carryover of fiscal 1976 contract authority under the section 8 new construction program would be $100 million more than the administration projected. This amounts to approximately $2.4 billion in obligational authority over a 20- to 40-year period. If more section 8 authority is needed we can provide it in a supplemental.

Incidentally, the major reason we are not able to show a saving of the full $2.4 billion, despite the fact that we have cut into the administration's annual contract authority estimate even more deeply than the $100 million carryover figure would imply, is that we have earmarked $150 million in the bill for public housing, including $125 million for conventional public housing. This program has a 40-year run-out figure. Thus, this $150 million in annual contract authority alone results in $6 billion in outlays over a 40-year period—40 times $150 million.

As the report makes clear, we are prepared to give favorable consideration to a supplemental request for assisted housing if our carryover estimates are faulty or if additional funding is needed.

Another major factor in our reduction below the budget estimate is the committee's decision to concur in a House cut of $690.7 million in funds to reimburse the FHA or its losses on insured property. The amount provided—$135 million—should allow the FHA enough money to handle its cash flow problems. The remainder can be borrowed from the Treasury.

The other significant changes in the HUD programs, which I will be glad to discuss in detail if any of my colleagues wish me to do so, are:

First. An increase of $25 million above the House figure and $50 million above the budget request for the section 701 comprehensive planning grant program. The total provided is $75 million.

Second. An increase of $50 million above the House for the rehabilitation loan program to a total of $75 million. No funds were requested in the budget for this effort.

Third. An increase in the budget request of $112 million for public housing operating subsidies. This agrees with the action of the House.

Fourth. A decrease of $25 million in the budget request for flood insurance studies and surveys in concurrence with the House. The total provided is $75 million.

Fifth. A decrease of $11 million in the budget request for research and technology. This leaves a total of $60 million, which is $7 million above the House approved figure.

Sixth. A decrease of about $4 million in the budget request for HUD salaries and expenses to a total of $421 million, which is $4 million more than the House provided.

Most of the funding we have provided for the Veterans' Administration is entitlement support that we are required by law to appropriate for compensation, pensions and readjustment, or GI bill benefits. Of the total of $18.4 billion that is included in this bill for the VA, these entitlement payments account for $12.4 billion. Another $4.2 billion is devoted to medical care which is a moral obligation of the Federal Government if not an absolute quantifiable legal obligation. In fact, we have con-

curred with the House in adding $50 million to the budget request for additional medical care expenses. We have also approved the appropriations of $268,316,000 for the planning of eight new hospitals and the construction of two of those hospitals in accordance with a budget amendment submitted on May 24. By deleting a number of unbudgeted projects added by the House we have been able to cut the House-approved figure for major construction by $10,284,000.

The National Aeronautics and Space Administration is our next biggest account. There we have virtually agreed with the budget request. The figure we have approved is identical to the amount authorized and $1,803,000 below the budget estimate. The committee has recommended a total of $3.7 billion.

As we all know the Environmental Protection Agency has a great variety of missions. We have recognized the importance of their activities by providing about $240 million more in budget authority than EPA requested. The great bulk of the add-on—$200 million—is for waste water treatment facility reimbursement grants. The House concurred with this add-on. We have also provided an additional $14 million for State air and water control agency grants; $10 million for the clean lakes program and $4 million to keep the training program alive. We have not included funds for new waste water treatment facility construction because of the lack of an authorization. We hope to be able to move quickly in a supplemental to take care of the problem.

The committee has restored the funds cut by the House from the budget request for the National Science Foundation's basic research effort. This has meant an add-on of $56.6 million to the House bill. Although I opposed this 19.5-percent increase, other committee members disagreed. The total provided for NSF is $801.6 million—a mere $400,000 below the budget request. Our restoration of basic research funding was slightly offset by a cut of $5 million below the House level in the science education budget, which still leaves the NSF with $4 million more than it asked for in its budget request for science education.

The committee has provided $37 million—the budgeted amount—for the Consumer Product Safety Commission. Although this is $4.1 million below the figure approved by the House and represents a cut of about $2.6 million below CPSC's budget for last year, the committee felt that they could get the job done for less if they set priorities, which apparently the agency is prepared to do.

We have made relatively few changes in funding for the smaller agencies covered by this bill. The committee has recommended concurrence in a proposed cut in funding for the Selective Service System from $37.5 million last year to $6.8 million this year, which puts the System in a deep stand-by posture.

We have also approved, in part, an appropriation for funding for the new Office of Science and Technology Policy. The committee provided $2.3 million of the $3.3 million requested for the Office. More funding seems inappropriate at this time, since the President has not yet named a science adviser and the committee has had no opportunity to determine in detail how the funds are to be used.

In addition to these major appropriation decisions. The committee has recommended that language limiting the use of noise zone maps in Merced County, Calif., contained in the House-passed bill, be stricken. HUD objected to the language and we felt the issue should be kept alive for the conferees to resolve. Senator TUNNEY has told me that he strongly supports this language and I can assure my colleague from California that his views will be given every consideration in conference.

The committee has stricken language prohibiting EPA from limiting parking in the hope that the authorization committees will address that issue in the near future. If the authorizing committees do not move by the time we get to conference, we can consider restoring the language.

Finally, I have recommended the addition of language prohibiting the use of a chauffeured car to drive agency heads to and from work, in accordance with current law. This language does not apply to the Secretary of Housing and Urban Development.

The bill as reported is approximately $10 billion in new budget authority below the amount allocated by the committee as a target for this bill pursuant to the first concurrent resolution on the budget. There are three reasons for this discrepancy:

First. The target resolution includes about $5.6 billion in budget authority for new waste water treatment facility grants. There are no funds in the bill for such grants because the authorizing legislation has not yet been passed. We expect to act on this program in supplemental legislation.

Second. The target resolution includes about $1.2 billion for veterans that is contingent on the passage of legislation increasing veterans' benefits.

Third. There is further assisted housing money available that could be provided in a supplemental if the section 8 program moves ahead vigorously. Funds are also targeted for the Ginny Mae Tandem program. These two accounts total about $6 billion.

Mr. President, due to the speed with which the report was handled there are some errors in the figures appearing in the first paragraph on page 4. The figure in the first sentence should be $43,331,900,000, as reflected in the table on the first page of the report, rather than $43,281,900,000.

The second sentence of the first paragraph on page 4 should read as follows:

This amount is $9,873,240,000 under the appropriations enacted for fiscal year 1976, $1,974,298,000 below the budget estimate for fiscal year 1977 and $349,170,000 more than was provided in the House bill for fiscal 1977.

Mr. President, I particularly thank my colleague from Maryland (Mr. MATHIAS) for his hard work on this bill. He has been unfailingly cooperative and most accommodating. We have our disagreements from time to time, but, happily, these are more than offset by a willingness to reach a common ground which has contributed greatly to an expeditious handling of the legislation we have before us today.

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

The PRESIDING OFFICER (Mr. HUDDLESTON). Who yields time?

Mr. MATHIAS. Mr. President, I wish first to thank our chairman of the subcommittee (Mr. PROXMIRE) for the very kind words he has uttered but even more for the courtesy and cooperation he has shown to me and the other members of the subcommittee during the long, hard process of hearings and marking up this bill. Senator PROXMIRE has covered all the points and given all the more important figures contained in this bill, so I will not attempt to cover this ground again. I would like to comment, however, on several items of importance to me.

First, let me say how pleased I am that both the Senate and House have arrived at a high funding level for housing for the elderly and handicapped. This important program has received tremendous support throughout the country as evidenced by the great number of applications for funding. The first round of applications have been processed and awards have been committed. With the additional funds provided in this bill of $750 million, we will now be seeing more applications generated throughout the country and the better ones will receive the needed funding. HUD chose to manage this program from its headquarters here in Washington and to me this appears to have been a happy choice. They developed the expertise in one office here in Washington from which they could look into the need for elderly and handicapped housing across the entire country and they could process the applications efficiently and assess the relative viability of these applications on an equal basis. I hope that HUD will continue this system of centralized processing, but I understand that they may relegate this process to the regions or areas. I think the chairman of the subcommittee would join me in wanting to have a hard look at any such change to assure that equal, and more importantly, efficient and timely consideration will be given to applications for these section 202 funds.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I wholeheartedly agree with that. This is one of the best programs we have. It is not only popular, it is efficient, and it cost the Federal Government virtually nothing. I could not agree more.

Mr. MATHIAS. I thank the chairman. The committee has increased the House allowance of $25 million for the rehabilitation loan fund to $75 million, and has also increased the earmarking for modernization of public housing from $25 million to $45 million. We all know that both rehabilitation of residential and nonresidential property and modernization of certain public housing projects are a crying need in this country. We will have a tough conference debate with the House on these two items and can

only hope that our brothers in the House "will see the light."

Another item of interest to my colleagues concerns rural housing development. The committee has concurred with the House that at least 15 percent of the public housing contract authority shall be earmarked for nonmetropolitan areas. We have done this in recognition of the financing problems rural areas are experiencing with the other lower-income housing program, section 8. I am encouraged by reports that HUD and the Farmers Home Administration have worked out an arrangement to expedite processing and review—times for the combined section 515/section 8 programs in rural areas. With the public housing set aside and the Farmers Home financing for section 8, I am hopeful that our Nation's rural areas will not be shortchanged in lower income rural housing funds.

The fiscal year 1977 HUD appropriation comes before the Senate at a time when several housing indicators would lead us to believe the housing sector is rallying from its worst slump since the end of World War II. While single family housing starts and the attendant construction jobs which produce those starts are beginning to pick up, the picture in multifamily production is not so rosy. Multifamily starts were down 33 percent in 1975 to 349,000 units, and it is the multifamily sector that is critical to the needs of low and moderate income families because it produces rental housing. With many local housing markets experiencing a very tight rental vacancy rate, the stimulation of multifamily rentals, particularly for low and moderate income becomes very important.

So, we should not be lulled into thinking that we are out of the woods yet in regard to a housing recovery. We must look carefully at the economic indicators and see who is benefitting from this purported housing recovery.

One thing is clear. The recovery is not benefitting those at the bottom of the economic scale who can least afford high rentals at more than 25 percent of their income. It is this group of households—elderly individuals and couples on fixed incomes; female-headed households with more than three dependent children to care for who subsist on food stamps; and aid to families with dependent children—who are hurt the most by the recession and the spiraling costs of basic necessities which their fixed incomes cannot stretch to meet.

The housing recovery is only occurring at the upper end of the economic scale for those who can afford to purchase housing with downpayments of 20 to 30 percent and 9- and 9½-percent mortgage interest rates.

Those who can afford the recovery will be able to participate in it. Those who cannot—those shut out of the home buying market and those of low- and moderate-income who can only participate in the rental market—will not see the effects of the recovery in their own shelter. Ther needs will remain unmet.

The President, in his state of the Union address, stated some 500,000 housing units were to be "assisted" this year. It is important to understand HUD terminology to anticipate how much visible, measureable progress we will see in fiscal year 1977.

"Units to be assisted" refers not only to new construction starts; it also includes rehabilitation of vacant units, occupancy and rent supplementing of existing standard housing units, and bailout of HUD-insured defaulted and foreclosed properties.

If we sift out the projected number of housing units which will be rehabilitated, rent supplemented, and "bailed out" for fiscal 1977, the HUD-assisted new construction starts picture is less than 250,000 units—not a very encouraging figure.

The programs that HUD proposes to use to generate 500,000 assisted units are the section 8 rent supplement program; the section 235 moderate income homeownership program; and the conventional public housing program.

Such a low "new construction starts" figure indicates to me that HUD is no longer out in front stimulating the housing sector and channelling production toward our greatest needs areas—low- and moderate-income housing.

New construction and substantial rehabilitation starts—as distinct from rent supplements to existing housing—are the most difficult to generate because there is no readily available financing mechanism except for the recently released $3 billion emergency mortgage purchase money for Ginnie May—GNMA.

The other potential source of financing, the section 802, interest reduction payments for State taxable bonds, was rescinded by HUD and overridden by the House. HUD has stated it will not use the $15 million available under this program.

HUD proposes to use section 8 in each of fiscal year 1976 and 1977 to rent and occupy 100,000 of its financially troubled properties. This means that HUD-held properties, the largest number of units being multifamily buildings in declining urban areas, will be rent supplemented by section 8 and occupied by "lower" and "very low" income families.

This backdoor bailout by HUD will constitute an estimated $1.3 billion drain on the FHA special risk insurance fund and the general insurance fund. Despite the section 8 ballots, this fund still requires an appropriation to keep it solvent.

Consider that HUD's own estimate of depletions of those two funds in fiscal year 1977 will amount to almost $3.2 billion. HUD's figures project for fiscal 1977 a continued increase in the number of multifamily assigned mortgages.

There are important policy questions raised by HUD's using a rent supplement program to keep their worst properties from going into bankruptcy. It results in low-income families occupying properties which are in poorly maintained condition, managed weakly, and are located in marginal neighborhoods.

The question is whether those buildings are salvageable, or even whether they should be salvaged.

We in Congress, as well as HUD policymakers, are faced with a very difficult proposition which has not been fully addressed. Should housing programs currently in operation, like section 8, be used to bail out faltering predecessor housing projects? What actions should be taken to remedy the growing problem of Secretary held and assigned mortgage properties?

Will we in Congress find ourselves next year or the year after reviewing a HUD budget which produces a minimum of new housing while using housing program appropriations to shore up the general and special risk insurance funds? The prospect of such a scenario occurring is not that farfetched.

HUD's property management operations have been the subject of several congressional hearings and investigations in the last year, and both the Senate and House have expressed their concern about the growth of the Secretary-held and assigned property inventory. I think several points have emerged clearly from those investigations.

A closer working relationship must be developed between HUD and the mortgage companies servicing HUD-insured mortgages. Changes in HUD policy toward late payments, partial payments, and penalties must occur and be clearly communicated to the mortgagee.

A better monitoring system must be developed by both HUD and mortgagees to keep themselves updated on problem mortgages and properties. Adjustments must be made in payments schedules and, most importantly, in the attitude of both HUD and the mortgagee toward the low- and moderate-income owner or renter.

The problem of Secretary-held and assigned mortgages requires close cooperation by both the public and private sectors, who are partners in the low- and moderate-income housing endeavors. "Forebearance," a term used to describe a patient extension of time for receipt of mortgage payments, can also be applied to the type of attitude both HUD and the banks must take toward low income owners and renters in these inflationary times of high unemployment.

The HUD field staff must be of a size and technical expertise to handle the defaulted and foreclosed inventory. And yet, we see indications of reductions in personnel, particularly in housing production and mortgage credit, at the area office levels. Such staff dccreases can only exacerbate the problem.

As to the community development block grant program, these funds cannot be used to directly finance housing construction. I think we should be looking for visible end products out of the community development block grant program—namely new housing starts and rehabilitation of the existing stock for low- and moderate-income occupancy. It should not simply be a continuation of the former categorical programs under a different name. Yet, when we look at how some cities are using their funds, we find the same old urban renewal activities under a different guise.

The history of the initiation of the community development program was one of recognition of the need for a broader perspective on the dynamics of city growth and change. The program was intended to provide local policy-

makers the flexibility to use Federal funds to meet their particular and specialized needs. We have provided the full $3.2 billion request level for the community development block grant program and are looking forward to the feedback from the recipient communities on their experience with the program, creative uses they have made of the funds, and recommendations for improvement.

Despite the growing difficulties at the local level with defaults and foreclosures of HUD properties, there is no all-out effort by the Department to beef-up local area office staff and provide them with the training necessary to manage such properties. Added program responsibilities at the local level which HUD did not completely anticipate include extension of the GNMA Tandem program which provides financing for the section 8 program, as well as the section 312 rehabilitation loan program, the extension of the section 518(b) corrective repair program, and the 701 comprehensive planning program.

All of these responsibilities are added to the existing program responsibilities of local area office staff.

And yet HUD is reducing field staff by the end of fiscal 1976, and then HUD proposes to increase its field staff in fiscal year 1977. This "yo-yo" effect of HUD staffing, while partially due to congressional appropriations, is also due to HUD's internal workload measurement system. This system was developed by HUD in response to congressional concern about the size and role of regional office staff.

While several studies have pointed out the diminished role and need for regional offices, it appears the workload measurement system has had the real effect of reducing area office staff—those who have the direct, daily contact with housing producers, managers, and residents. It is these people who bear the major responsibility for timely processing of housing applications, review of local community development block grant applications and housing assistance plans.

And it is these people who bear the brunt of the complaints from the producers, managers, and residents when applications are not processed and decisions are not reached quickly.

HUD has informed me they measured workload in the field and assigned staff levels to the regions and areas on October 6, of last year. Yet, it was not until late April and May of this year that formal reduction-in-force notices went out to area office employees. Now a system needs improving that takes 6 months to adjust its personnel levels to workloads.

This system is applied to only 25 percent of the central office staff, and it results in little or no change at the regional level, and causes reductions in force at the area office level.

For example, I call my colleagues' attention to HUD's own data for area office staff decreases between fiscal year 1975 and fiscal year 1976. In region three, which includes five area offices, and two insuring offices, 66 permanent full-time positions will be abolished. During the same period the regional office located in Philadelphia gained one position.

In fact, the number of authorized positions in 8 of the 10 HUD regional offices is scheduled to increase between fiscal year 1975 and fiscal year 1976. There will be a net increase of 41 positions in regional office personnel during this time period.

I do not believe this is the result Congress was looking for when it directed HUD to take a look at its regional office structure. So I hope that HUD is making some adjustments to its workload measurement system to build in a gyroscope, if you will, to moderate the ups and downs of total HUD employment. They have informed me that they are doing so, and I would hope to see the application of that system to more of the 3,800 central office positions.

The Appropriations Committee is recommending a $60 million level for HUD research and demonstrations. I am a supporter of research here as well as in other parts of this bill, most notably, the National Science Foundation, and I share the belief of the subcommittee chairman (Mr. PROXMIRE) that the results of such research should be made generally available to the public in layman's English.

It seems to me that the more widely HUD distributes the results of ongoing and completed research the more informed we in Congress, urban professionals, and American citizens will become about the many pressing problems and proposed solutions facing us in the field of community development. This might be one way we can come closer to a consensus on workable programs and policy.

I am particularly concerned about ways we can reduce housing costs, both in the construction process and through financing mechanisms. HUD has many interesting research projects underway in these areas, including investigations into alternative mortgage payment plans.

HUD recently reported that 42 percent of all renters pay more than 25 percent of their income for rent. This group of people who are feeling the inflationary squeeze in their shelter costs has steadily increased over the past 2½ decades.

When I learn that over 70 percent of this Nation's families cannot afford the median price of a new home today because of the substantial downpayment and monthly payment costs, I begin to wonder about our national housing goals of a "decent home in a suitable living environment."

We all can benefit from the results of HUD's research and hopefully put some of the ideas generated to work for us all.

I am very pleased that this year the committee has included funds totaling $5 million, and designated that 50 personnel be assigned, for the Chesapeake Bay study by the Environmental Protection Agency. This project was actually started during the present fiscal year at a lower level with reprogramed EPA funds, for which I owe special thanks to the chairman of the House Appropriations Subcommittee on HUD-Independent Agencies and to my chairman.

The committee has recommended several changes in the NASA accounts and yet has agreed with the House on many others. We have provided funding for the construction of a lunar curatorial facility, which the House did not allow.

That, Mr. President, is a fancy name for a warehouse to put the moon rocks in. This is considered by the scientific community in this country as a high priority item.

With tremendous courage, energy, and expenditures, this country obtained hundreds of samples from the Moon, and I consider it absolutely essential that they not only be protected but be housed in a way that will allow safe and efficient access for the very important research which is now going on and will go on for many years, as we try to learn more about the world and the solar system we live in. On this subject of learning more about the universe so that we can know more about our own Earth, the Senate, in its report, has directed that NASA continue their preliminary studies and contracts leading to development of a space telescope to be flown into space by the space shuttle and to be used for many years. The House position is that the present design and predevelopment contracts should come to a stop, and we should wait until a decision is made, perhaps in fiscal 1978, to build the space telescope. This would mean that the engineering and scientific teams in the various aerospace and other private organizations who have worked in competition to prepare for the development and building of the space telescope would be left in limbo. I believe, and I know many others share my view, that this would not only be inefficient but would work to the detriment of the program and the taxpayer in that ultimate costs would thereby increase when we attempt to restart development of the space telescope and the teams of experts now working on this would be disbanded. Perhaps of most importance is the fact that this Senate and this Congress will be faced, probably early next year, with the decision whether to build or not to build the space telescope and we can only know accurately what the costs will be if we continue the present process leading up to contractor selection and negotiations.

The Senate committee has restored the over $50 million House cut in basic research at the National Science Foundation. While it can be argued that this results in an increase in basic research funds at the National Science Foundation over the current fiscal year, to this point I say, "Amen." In terms of real dollars, I do not believe this country is moving ahead sufficiently in its commitment to basic research and even with the restoration of these funds it is not certain that we are adequately supporting basic research. The National Science Foundation management systems have been improved, their commitment to awarding only the most meritorious proposals for basic research have been made clear.

The committee has satisfied itself that the Director of NSF, Dr. Guyford Stever,

is a capable administrator who is taking corrective action to make the peer review process work well. It is essentially sound.

In the judgment of many of us on the committee, the Nation needs additional fundamental research on natural phenomena, and the fundamental life processes. Our capacity to deal decades in the future with environmental problems, with disease, with the consequences of technology, with the shrinking natural resources and with energy production will depend on sustaining a strong basic research effort in the years immediately ahead. These considerations persuaded the committee that the President's proposal for funding basic research should be sustained.

After the end of World War II, the Nation launched a sustained and comprehensive research effort, financed substantially by Federal funds. Most of the basic research component of this expansion was undertaken by universities. The expansion of science in universities was on a scale which absorbed increasing amounts of faculty time. This generated a number of academic and financial problems.

With the passage of years, the policy of paying faculty salaries from Federal research grants needs reexamination. To what degree should the Federal Government assume responsibility for faculty salaries, particularly during the academic year? Is it sound to have university faculty members dependent upon Federal funds for their salaries? The committee has asked for a thorough study of the effect of NSF support of faculty salaries in connection with research grants. I hope these questions will be answered to our satisfaction.

Finally, to end on a happy note, let me say how pleased I am that, at long last, the administration has approved the construction of a new replacement VA hospital in Baltimore. It has been frustrating to me during the last few years to fight for funding for this construction which everyone agreed was needed. The funds are in this bill and in the House bill for the architectural services and design and other preconstruction activities leading up to the now approved construction of this hospital.

Again, I thank the chairman of the subcommittee for his cooperation, and I commend him for the excellent job he has done on this bill.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. James Medina of the Veterans' Committee staff be permitted privileges of the floor during the debate.

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

Mr. JAVITS. Mr. President, I make the same request as to my staff member, Charles Warren.

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

Mr. MUSKIE addressed the Chair.

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

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that a bill, as thus amended, be regarded for purposes of amendment as original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

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

The amendments agreed to en bloc are as follows:

On page 2, beginning with line 6, strike out:

The additional amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), entered into after September 30, 1976, shall not exceed $675,000,000 including not more than $25,000,000 for the modernization of existing low-income housing projects, which amounts shall be in addition to balances of authorization heretofore made available for such contracts: *Provided*, That the total new budget authority obligated under such contracts entered into after September 30, 1976, shall not exceed $14,608,390,000 which amount shall not include budget authority obligated under balances of authorization heretofore made available: *Provided further*, That of the total for contracts other than for modernization provided by this Act, not more than 25 per centum shall be allocated to contracts to make assistance payments with respect to new or substantially rehabilitated housing: *Provided further*, That of the total herein provided excluding funds for modernization, not less than $120,000,000 shall be used only for contracts for annual contributions to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act: *Provided further*, That of the amount set forth in the third proviso, not less than 15 per centum shall be used only with respect to new construction in non-metropolitan areas.

And insert in lieu thereof:

The additional amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), entered into after September 30, 1976, shall not exceed $615,400,000 including not less than $45,000,000 for the modernization of existing low-income housing projects, which amounts shall be in addition to balances of authorization heretofore made available for such contracts: *Provided*, That the total new budget authority obligated under such contracts entered into after September 30, 1976, shall not exceed $14,870,400,000 which amount shall not include budget authority obligated under balances of authorization heretofore made available: *Provided further*, That of the total for contracts provided by this Act not less than $150,000,000 shall be used only for contracts to make assistance payments pursuant to section 8 of the above Act with respect to new or substantially rehabilitated housing: *Provided further*, That of the total for contracts provided by this Act, excluding funds for modernization, not less than $150,000,000 shall be used only for contracts for annual contributions to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act and on which construction or substantial rehabilitation is commenced after the effective date of this Act except in the case of amendments to existing contracts: *Provided further*, That of the amount set forth in the third proviso, not less than 15 per centum shall be used only with respect to new construction in non-metropolitan areas.

On page 5, in line 2, after "handicapped", insert a colon and the following: *"Provided further*, That the Secretary may borrow from the Secretary of the Treasury in accordance with and up to the amounts authorized by said section, in such amounts as are necessary to provide the loans authorized herein."

On page 6, beginning with line 16, strike out:

For payment to cover actual losses, not otherwise provided for, sustained by the Special Risk Insurance Fund, $100,000,000; and for payment to cover actual losses under the General Insurance Fund from mortgages insured under section 221(d)(3) with below market interest rates, $35,000,000; to remain available until expended, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3).

And insert in lieu thereof:

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and the General Insurance Fund, $135,000,000, to remain available until expended, as authorized by the National Housing Act, as amended.

On page 7, beginning with line 4, strike out:

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, of providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $5,000,000.

On page 8, in line 10, strike out: "$3,048,000,000,".

And insert in lieu thereof: "$3,148,000,000 of which $200,000,000 shall be used for the purposes stated in section 103(a)(2) of said Act except that not more than $100,000,000 of the amount so provided may be used for the purposes of section 106(d)(1),".

On page 8, beginning with line 16, strike out:

For grants to States and units of general local government, to be used only for expenses necessary for carrying out a community development grant program authorized by Section 106(d)(2) of Title I of the Housing and Community Development Act of 1974, $100,000,000, to remain available until September 30, 1979.

On page 9, in line 5, strike out "$50,000,000" and insert "$75,000,000".

On page 9, in line 11, strike out "$25,000,000" and insert "$75,000,000".

On page 10, in line 9, strike out "$53,000,000" and insert "$60,000,000".

On page 10, in line 18, strike out "$417,000,000" and insert "$421,000,000".

On page 12, in line 16, strike out "$41,100,000" and insert "$37,000,000".

On page 14, in line 3, strike out "$265,000,000" and insert "$259,900,000".

On page 14, in line 3, strike out "until expended" and insert "for obligation until September 30, 1978".

On page 14, in line 15, strike out "until expended, $398,044,000" and insert "for obligation until September 30, 1978, $371,844,000".

On page 16, in line 8, strike out "$6,000,000" and insert "$5,000,000".

On page 16, beginning with line 18, strike out:

No part of any budget authority made available to the Environmental Protection Agency by this Act or for the fiscal year 1976 and the period ending September 30, 1976, shall be used for any grant to cover in excess of 75 per centum of the total cost of the purposes to be carried out by such grant made pursuant to the authority contained in section 208 of the Federal Water Pollution Control Act (P.L. 92-500).

On page 17, in line 12, strike out "$2,915,000" and insert "$2,800,000".

On page 17, beginning with line 13, insert:

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SALARIES AND EXPENSES

For expenses necessary for the Office of Science and Technology Policy, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $2,300,000.

On page 18, in line 5, strike out "$1,581,000" and insert "$1,645,000".

On page 18, in line 17, strike out "$2,767,425,000" and insert "$2,761,425,000".

On page 18, in line 25, strike out $118,090,000" and insert "$120,290,000".

On page 19, in line 25, strike out "$809,000,000" and insert "$813,455,000".

On page 20, in line 25, strike out "$681,400,000" and insert "$738,000,000".

On page 21, in line 13, after "individual", insert a colon and the following: *"Provided further,* That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein: *Provided further,* That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies."

On page 22, in line 9, strike out "$64,000,000" and insert the following: "$59,000,000: *Provided further,* That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein: *Provided further,* That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies."

On page 27, in line 20, strike out $399,134,000" and insert "$388,847,000".

On page 27 beginning in line 22, strike out: *"Provided,* That $5,800,000 shall be available for construction of a research and education facility at Dallas, Texas, $10,000,000 for construction of facilities on government owned land for a TARGET data processing center, $534,000 for design of nursing home care facilities at Wilkes Barre, Pennsylvania, and $500,000 for design of a new blind rehabilitation center and eye, ear, nose and throat clinic at Birmingham, Alabama.".

And insert in lieu thereof: *"Provided,* That $3,500,000 shall be available for the design of a clinical and ambulatory care addition and renovation of existing areas at the Oklahoma City, Oklahoma, Veterans Administration Hospital.".

On page 28, in line 19, strike out "$92,561,000" and insert "$92,501,000".

On page 29 in line 18, strike out "$2,100,000" and insert "$500,000".

On page 37, in line 4, strike out "mutability" and insert "mutuality".

On page 37, beginning with line 10, strike out:

SEC. 406. No part of the funds appropriated under this Act may be used by the Environmental Protection Agency to administer or promulgate, directly or indirectly, any program to tax, limit or otherwise regulate parking that is not specifically required pursuant to subsequent legislation.

SEC. 407. None of the funds provided by this Act shall be used to deny or fail to act upon, on the basis of noise contours set forth in an Air Installation Compatible Use Zone Map, an otherwise acceptable application for Federal Housing Administration mortgage insurance in connection with construction in an area zoned for residential use in Merced County, California.

And insert in lieu thereof:

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5; United States Code, section 101, is exempted from such limitations.

On page 38, in line 5, strike out "408" and insert "407".

Mr. MUSKIE. Mr. President, I wish to make some comments on this bill from the point of view of the Budget Committee and then, subsequently, from the point of view of my interest in the Environmental Protection Agency.

Mr. President, the bill now under consideration, H.R. 14233, the HUD-Independent Agencies appropriations bill for 1977, would provide $43.3 billion in budget authority and $34.6 billion in outlays to fund the Department of Housing and Urban Development, the Veterans' Administration, the Environmental Protection Agency, the National Aeronautics and Space Administration, and a number of other Federal agencies. This bill is well within the Appropriations Committee's allocations of budget authority and outlays to the HUD subcommittee under section 302(b) of the Budget Act, and I plan to support the committee bill. But, Mr. President, I do want to highlight a few points with respect to the congressional budget that we should be aware of in considering the bill before us.

The HUD-Independent Agencies Subcommittee's allocation under section 302 (b) amounts to $53.2 billion in budget authority and $37.2 billion in outlays. Enactment of H.R. 14233 as reported to the Senate would still leave available $9.9 billion in budget authority and $2.6 billion in outlays within the subcommittee's allocation. However, the budget resolution anticipated a higher appropriation to the FHA fund than is included in this bill.

The difference, amounting to $0.4 billion in budget authority and outlays, will, as a result of the approach taken in this bill, now turn up as backdoor borrowing attributable to the Banking Committee in the budget scorekeeping system. Accounting for this transfer of spending authority to the Banking Committee leaves $9.5 billion in budget authority and $2.2 billion in outlays remaining out of the HUD subcommittee's allocation, as we read it.

Possible supplementals for the Veterans' Administration and the Environmental Protection Agency programs could reduce these remaining balances to as low as $2.3 billion in budget authority and zero in outlays. These possible supplementals would result from cost-of-living increases of as much as $1.5 billion in budget authority and outlays for veterans' benefits which are almost certain to be enacted, a possible $0.7 billion in budget authority and outlays for other pending veterans entitlement legislation, and $5 billion in budget authority and $50 million in outlays for EPA construction grants. Those are the possibles we see coming down the pike. Thus, there are claims already on much of the budget authority and almost all of the outlays on what at first glance might appear to be ample room in this part of the Federal budget. Mr. President, I ask unanimous consent that a table be printed in the RECORD showing the effect of these supplementals on the subcommittee allocation balances.

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

EFFECT ON SUBCOMMITTEE SEC. 302(b) ALLOCATION OF POSSIBLE SUPPLEMENTALS TO THE HUD-INDEPENDENT AGENCIES BILL

[In billions of dollars]

Item	Budget authority	Outlays [1]
Subcommittee's sec. 302(b) allocation	53.2	37.2
Adjustment for backdoor funding of FHA fund [2]	—.4	—.4
Adjusted allocation [2]	52.8	36.8
H.R. 14233	43.3	34.6
Remaining allocation	9.5	2.2
Possible supplementals:		
EPA construction grants	3.0–5.0	.01–.05
VA cost-of-living increases for compensation, pension and GI bill benefits	1.1–1.5	1.1–1.5
Pending VA pension reform and medical care legislation	0–.7	0–.7
Remaining allocation if possible supplementals are funded	2.3–5.4	0–1.1

[1] Includes outlays from prior-year authority.

[2] The appropriations bill includes less funding for the FHA fund than anticipated in the Budget Committee's allocation of budget authority and outlays to the Appropriations Committee. Therefore, the difference should be available for the Committee on Banking, Housing and Urban Affairs. If the Appropriations Committee actually made such an adjustment, they could deduct the difference from any subcommittee's sec. 302(b) allocation.

Mr. MUSKIE. Mr. President, I also wish to remind my colleagues that the first budget resolution set spending targets by functional category, and we will be converting those targets into functional ceilings in the second budget resolution this September. Although the bill appears to be in agreement with the target levels for 11 of the 12 functions affected by this bill, the funding levels in the bill before us today may well result in upward pressure on the budget authority target set for veterans' benefits and services.

This appropriations bill provides $280 million more in budget authority and $57 million more in outlays for the nonentitlement veterans' programs than contemplated when the functional targets in the first budget resolution were adopted. This funding increase results mainly from the President's budget amendment for VA hospital construction. Since cost-of-living increases and other pending legislation for entitlement programs may well take up the remaining slack in the veterans' function, it will be difficult to offset the $280 million increase in budget authority in this bill for the President's increased budget request with savings elsewhere in veterans' programs.

Mr. President, I hope that these comments will be of help to my colleagues in placing this bill within the context of the congressional budget, and I wish to commend the Appropriations Committee for staying within their own allocation for this bill.

Mr. President, I hope these comments may be helpful to Members. I know that Senator PROXMIRE is well aware of the points.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think his comments are extremely helpful because when you look at this bill we brought in superficially, it seems to be far under the budget with lots of room for increases.

The fact is, as the Senator from Maine pointed out, when the supplementals, which inevitably will come down, are acted upon we will be pressing right against the ceiling.

We are going to be hard put to stay within the ceiling. So I think this explanation is most helpful. It is exactly the kind of information which, without the Budget Reform Act and without the Budget Committee, the Senate would not have been provided. The lack of this sort of information has caused us to go way, way beyond our intentions in the past. So I thank the Senator very much.

Mr. MUSKIE. Mr. President, if I may turn briefly, I would like to turn to the EPA concerns that I have.

Mr. President, previously I commented on the HUD-independent agencies appropriations bill in terms of its consistency with the budget program of the Congress. I would now like to discuss the substantive environmental programs in this bill. I want to commend the committee and, particularly, the subcommittee chairman, Senator PROXMIRE and the ranking Republican, Senator MATHIAS, for their diligent work with regard to the Environmental Protection Agency's programs.

As chairman of the Environmental Pollution Subcommittee of the Senate Public Works Committee, I have for many years urged increases in EPA's appropriations. The environmental laws passed in the last few years have greatly increased that Agency's responsibilities and the responsibilities of State and local governments. The Senator from Wisconsin has always expressed support for efforts to protect the environment and has continued to display that support in the appropriations bill before us.

I want to commend the Senator for the action of this subcommittee in eliminating the legislative rider which was placed in this legislation by the House Appropriations Committee. The language would have limited the Environmental Protection Agency's authority to require the regulation of parking activities as part of air pollution control programs. That was section 406 of the House bill.

The legislative committees in the House and Senate have each resolved this issue in legislation which has been reported out of the authorizing committees in both Houses and awaits action by each chamber. There is no justification for this kind of legislative language in an appropriations bill, and I compliment the Senate subcommittee for eliminating it. I urge the committee to resist any efforts to place this language in the conference report.

The same holds true for section 407 of the House bill, which was eliminated by the Senate subcommittee, and which would have placed inappropriate restrictions on the interrelationship between noise control programs and housing mortgage insurance programs.

The present administration has never been sensitive to the needs of environmental protection programs. Nowhere has this been more apparent than in the handling of appropriations matters. The administration has consistently requested reductions in the funding of environmental programs.

This year the President requested a drastic cutback in these programs. He recommended the reduction of $53.4 million in basic EPA programs from an appropriations levels of $771.5 million for fiscal year 1976. This reduction is even more drastic when compared to the fact that a $46 million increase is needed merely to offset the effects of inflation over the past year. The Appropriations Committee, under the leadership of the subcommittee chairman, has restored most of those cuts, though the amount in the bill before us remains $3.1 million below the appropriations for fiscal year 1976. The House has provided considerably more funds in this area, and I hope the Senate committee will listen sympathetically to the possibility of accepting some of these increases.

I will not elaborate in detail the many areas of EPA's programs that need additional fund and manpower. That is expressed in the March 15 report from the Senate Public Works Committee to the Senate Budget Committee. In the 1975 report to the Budget Committee, the Public Works Committee identified $450 million in justifiable increases in environmental protection programs.

These were not the maximum increases that could be justified; they were the amounts the Agency could absorb in 1 year in areas where increases were needed. In the 1976 report to the Budget Committee, the Public Works Committee attempted to identify a more restricted list and identified programs which needed funding increases totaling $180 million.

The President's cuts must be compared against this analysis. In that light, the restorations proposed by the Appropriations Committee are certainly modest. I would like to place in the RECORD the analysis and recommendations of the Public Works Committee from the last 2 years so that the Senate might know the magnitude of the needs of the Agency and understand why the President's cuts must be rejected, as they have been by the Appropriations Committee. I ask unanimous consent that those portions of the March 15 reports be printed at this point in the RECORD.

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

ENVIRONMENTAL PROTECTION AGENCY BUDGET—1975

(Natural Resources, Environment, and Energy—304)

The period from 1965 to 1975 was a period of growing environmental awareness, expanding environmental programs, and increasing commitments to the protection of the environment. Yet, as a percentage of the Federal budget, the funding of environmental programs has been constant. In 1965 natural resources and environment received 2.5 percent of the Federal budget. That percentage is unchanged for 1975. And yet major new programs, demanding significant increases in personnel and funding have been approved by the Congress.

One of the critical needs of the Environmental Protection Agency is increased personnel. Enforcement and research require people. The failure to make available necessary personnel to implement authorized programs is as effective in hampering a program's effectiveness as impounding appropriated funds.

The Senate Report accompanying the 1970 Clean Air Amendments pointed out that money and manpower for clean air programs were running at half the authorized levels. It went on to say the following:

"This pattern cannot continue if the Congress and the Federal Government are to retain credibility with the American people. The authorization figures contained in the bill represent the best estimate of the Committee in consultation with the Administration, of what will be required to implement its provisions.

"The availability of manpower, with adequate funding, can provide effective implementation of these amendments. The committee expects that past trends will be reversed and that required manpower will be made available to implement the programs."

The Committee has received a statement, from the National Air Pollution Manpower Development Advisory Committee, which was established under section 117 of the Clean Air Act, emphasizing the fact that manpower problems are becoming a very significant restraint on environmental progress.

During Senate consideration of the Clean Air Act of 1970, the Committee and the Administration spent considerable time establishing accurate figures regarding the personnel levels necessary to implement the Act. That estimate, contained in the Senate report accompanying the legislation, was that 2,930 people would be required to implement fully the Clean Air Act in fiscal year 1973. Yet at present fiscal year 1975 levels, the Agency has only 1,590 assigned to the air program.

Today, the Clean Air Act remains less than fully implemented in many ways. State implementation plans were not developed with detailed compliance schedules for each source of pollution to achieve fixed emission limitations; transportation control and land use programs did not include adequate consultation and planning processes; new source performance standards for 19 categories were to be published in less than a year after enactment of the Clean Air Act, yet only 8 have been promulgated; the air quality data base needed for effective regulation has been inadequate; monitoring of auto industry efforts to meet emission standards has been inadequate, and implementation plan violations have not been fully pursued.

The Committee believes that the restrictions on manpower by the Administration have been an important factor in these delays. Congress has authorized many new positions in the appropriations for the programs of the Environmental Protection Agency. Most of these have never been released to the Agency by the Office of Management and Budget.

Another example of the need for additional manpower (or effective utilization of manpower from other Federal agencies) relates to implementation of the Federal Water Pollution Control Act Amendments of 1972. That Act made $18 billion available for waste treatment construction grants. With the recent Supreme Court decision, this money has now been allotted to the States.

Failure to audit the use of water pollution construction grant funds, inspect sewage treatment plants constructed with those grant dollars, provide adequate training for personnel to operate those plants, and monitor the quality of effluent discharged from them can result in an inadequate protection of the Federal investment.

The Committee recommends a reduction for the noise control program. The fiscal year 1975 appropriation is $5.2 million. The budget request for fiscal year 1976 is $10.2 million. The Committee recommends retaining funding at the $5.2 million level. This is allocation of scarce resources In light of the Administrator's March 5 decision to delay auto emission standards, the Committee believes that scarce resources can be better spent on increased regulation of emissions from heavy duty vehicles, transportation control plan assistance, gasoline evaporative loss control, and State inspection and maintenance programs.

SUMMARY

As to the Committee evaluation of the proposed budget for the Environmental Protection Agency, we are concerned that the Agency's budget does not lend itself to the establishment of the spending priorities by the Congress. The failure of the Agency to identify either the authority for specific budget requests or the specific programs for which there will be expenditure makes impossible a congressional determination of the adequacy or the appropriateness of the request.

In light of this problem, the Committee will request that the Appropriations Committee insist that the budget for the Environmental Protection Agency be prepared in such a way as to identify specifically both the authority for and the purpose of budgetary requests. In the absence of that information this year, the Committee has agreed to identify for the Budget Committee three alternative levels of budgetary authority for EPA:

1. In the first category, the Committee identifies a need for a budgetary increase over the request of $450 million. This level of increase appears to be necessary to achieve implementation of mandatory functions under environmental statutes;

2. In the second category, the Committee has identified a need for $165 million increase as necessary to provide the implementation of those Agency responsibilities for which priorities can be identified and which if not provided will result in failure to achieve statutory deadlines and otherwise minimally carry out the purposes of the Clean Air Act and the Federal Water Pollution Control Act; and

3. Category three suggests no increase in budgetary authority for the Environmental Protection Agency, but rather suggests the need to reallocate proposed expenditures by the Agency to reflect those increases in appropriate categories identified in the minimum increase suggested in paragraph 2 above. This would mean that the Agency would have to curtail discretionary functions and otherwise restrict activities in order to assure implementation of mandatory statutory functions.

Important goals can be met by increasing funding of environmental programs. Jobs and employment can be stimulated directly and rapidly because many programs are labor intensive.

Environmental programs offer two useful approaches to help stimulate the economy:

(1) enforcement, research and monitoring programs are manpower intensive and can provide immediate employment opportunities. At the same time, they will bring the enforcement of environmental laws up to levels anticipated by Congress when initially enacted;

(2) The wastewater treatment construction grant program offers 43,000 direct jobs for every billion dollars expended, with the potential of substantial economic impact through indirect employment created by the stimulus of the initial construction expenditures.

Under the recently passed title X of the Public Works and Economic Development Act, the Environmental Protection Agency has identified grants to State pollution control programs as the program within their Agency that is most likely to stimulate jobs and have immediate impact.

Providing increases for these programs will bring them in line with the duties placed on the Environmental Protection Agency by the Clean Air Amendment of 1970 and the Federal Water Pollution Control Act Amendments of 1972. In addition to the economic impact, support of these programs at the levels recommended by the Committee on Public Works is essential to implement the Nation's environmental laws in the manner intended by the Congress.

The following table is used by the Agency and by the Appropriations Committee in analyzing the Environmental Protection Agency's budget request. The Public Works Committee recommendations are listed in an additional column.

EPA TABLE 1.—EPA APPROPRIATIONS (BUDGET AUTHORITY)

[In thousands]

OMB functional code and program	President's request			Public Works Committee recommendation			
	Fiscal year— 1975	Fiscal year— 1976	Transition quarter	Increase, fiscal year 1976	Transition quarter	Increased personnel, fiscal year 1976	Fiscal year 1976 total
304—Air	$152,322	$140,332		$130,000		300	$270,332
304—Water quality	163,265	210,864		215,000		430	425,864
304—Water supply	7,779	32,327					32,327
304—Solid waste	14,593	16,632		10,000		25	26,632
304—Pesticides	33,357	44,175					44,175
304—Radiation	7,551	6,067					6,007
304—Interdisciplinary	15,362	17,362					17,362
304—Toxic substances	8,827	8,837					8,837
304—Noise	5,274	10,203		(−5,000)		(−10)	5,203
305—Energy R. & D	134,000	112,000		100,000		50	212,000
304—Management and support	121,675	135,903					135,901
304—Scientific activities overseas		6,000					6,000
304—Facilities	1,400	2,100					2,100
Total	665,395	742,000	174,000	450,000	312,000	795	1,192,000
304—Construction grants	[1] 3,399,800						

[1] With the Supreme Court decision and the release of impounded funds, $9,000,000,000 is now available as contract authority through fiscal year 1977; the total unobligated balance which will be available for fiscal year 1976 is $12,000,000,000 to $13,000,000,000. The agency believes $5,600,000,000 can be obligated in fiscal year 1976 ($2,300,000,000 from fiscal year 1975 funds and $3,300,000,000 from fiscal year 1976). The Public Works Committee believes this obligation can reach at least $6,000,000,000 in fiscal year 1976, based on testimony received from the States in hearings Feb. 28. Approximately $6,000,000,000 to $7,000,000,000 will be available for obligation in fiscal year 1977; it is possible that Congress may authorize additional sums for fiscal year 1977. EPA expects all $18,000,000,000 of the funds originally authorized in the 1972 act to have been obligated by the end of fiscal year 1977.

The administration expects fiscal year 1976 outlays to be $2,300,000,000—$1,500,000,000 in construction grant funds, $500,000,000 in previously appropriated reimbursement funds, and $300,000,000 in prior law (Public Law 84-660) contracts coming due out of previously appropriated funds. The Public Works Committee believes that fiscal year 1976 outlays could rise to $3,000,000,000 if the obligation rate is accelerated by the agency. Fiscal year 1977 outlays are difficult to project, but will probably be from $4,000,000,000 to $5,000,000,000.

EPA TABLE 2.—OUTLAYS

[In thousands]

OMB functional code and program	President's request			Public Works Committee recommendation	
	Fiscal year 1975	Fiscal year 1976	Transition quarter	Fiscal year 1976	Transition quarter
304—EPA nonenergy	$604,964	$666,989	$237,932	[1] $956,989	$316,000
305—EPA energy	32,000	113,000		[2] 183,000	
304—Water construction grants	2,300,000	2,300,000	730,000	[3] 3,000,000	952,000
Total	2,936,964	3,079,989	967,932	4,139,989	1,194,000

[1] Assumes that of the $350,000 increase in budget authority for nonenergy programs recommended by the Public Works Committee for fiscal year 1976, all but $60,000 (principally in research and development and in water pollution areawide planning) could be expended in the same year.

[2] Assumes that of the $100,000 increase in budget authority for energy programs recommended all but $30,000 could be expended in fiscal year 1976.

[3] See footnote 1, table 1.

ENVIRONMENTAL PROTECTION AGENCY BUDGET—1976

(Natural Resources, Environment, and Energy—304)

Vast new environmental programs have increased the responsibilities of the Federal Government for environmental protection over recent years. The lack of adequate funding and personnel has greatly hampered the implementation of pollution control laws.

This report identifies five budget alternatives for EPA's activities: (1) the President's proposed reduction of $53 million (approximately 7 percent) in EPA's basic budget for fiscal year 1977; (2) restoration of the fiscal year 1976 appropriations level and 6 percent additional funds added to cover the costs of inflation in the last year's increase over fiscal year 1976; (3) increases added to bring funding levels up to the point where program responsibilities could be carried out at the minimum acceptable level; (4) EPA's own judgment of the optimum level of funds it could absorb in a fiscal year; and (5) the level recommended by the Senate Public Works Committee as the optimum program in last year's report, adjusted for inflation.

Alternative	Fiscal year 1977 budget authority	Increase or decrease over fiscal year 1976 appropriation
Accept President's reductions	718	−53
Restore fiscal year 1976 base plus 6 percent inflation	817	+46
Increase to minimum levels needed to further program responsibilities	898	+127
EPA's judgment of optimum level	1,006	+235
Public Works Committee judgment of optimum level	1,264	+495

The Committee recommends the third alternative, which restores the cuts proposed by the President and adds funds necessary to move forward in a positive fashion to meet environmental commitments. These increases are necessary to meet the increased responsibilities that accompany these regulatory programs. This total is almost $300 million less than Committee recommended to the Budget Committee last year.

AIR

In air pollution, additional funds would be used to increase grants to State air pollution control agencies. Such funds have remained at a static level for many years, even though the Federal Government has placed increased reliance on State programs to fulfill the Clean Air Act goals. Funds would be used to support inspection and maintenance grants for vehicle inspection programs. The actual record of emissions from cars on the road shows very substantial deterioration from demonstration prototype cars tested. Inspection and maintenance programs were contemplated in the 1970 Act and should be implemented rapidly.

Increases in health effects research, particularly to investigate sulfates, cancer causing pollutants, and long term transport of complex pollutants is badly needed. Funds from the proposed increase would be used to implement an assembly line test to insure that the cars coming off the production line actually meet standards. A portion of these funds would be used to develop regulations for a certification program for aftermarket parts.

The increase would be used to establish additional new source performance standards for stationary sources of air pollution. The 1970 Amendments contemplated rapid implementation of new source performance standards, but the record has been extremely slow. Many major industrial categories still do not have such standards applicable to new construction. This has greatly hampered an effective air pollution program.

Funds would be available to continue training grants, and enhance stationary source enforcement activities. In addition, increased fiscal year 1977 funds would be used to cover the following activities which are contemplated in the Clean Air Amendments of 1976 which have been reported from the Committee: (1) transportation planning grants, (2) stratospheric ozone research, and (3) National Commission on Air Quality.

WATER QUALITY

The fiscal year 1977 budget request for the water quality program shows a major decrease from last year's level. The request for fiscal year 1977 is $178.2 million, down $60.1 million from the fiscal year 1976 level, and yet the water pollution control program is approaching a milestone year for enforcement and municipal construction activities. The overall success of the water pollution control effort depends to a large extent on the success of the activities pursued during fiscal year 1977.

The largest cut in the water program is borne by the section 208 planning effort. This year's budget requests only $15 million for funding of 208 planning areas and Statewide planning as well. This section provides grants to local and State planning agencies to plan for and manage their water resources on a long-term area wide basis.

Last year's budget included $53 million for 208 grants; the law anticipated an annual authorization of $150 million. In the option recommended, increased funds are made available for 208 planning grants, especially in response to last year's court decision requiring a 208 planning effort in all areas of all States. These funds would be used to fund 208 agencies designated in the last year, new designations in fiscal year 1977, areas to be covered by State planning, and continuation of funding for existing 208 agencies running out of money.

Another area of budgetary concern is section 106 State control agency grants. This year's budget requests $40 million, $4.5 million less than last year, and $35 million less than congressionally intended authorization levels. The Administration has stated publicly that it expects to give greater management and control responsibilities to the States in the coming fiscal year, and yet the program which provides funds to the State agencies for such purposes is reduced. The option recommended provides additional funds to State control agencies.

Funds for the development of effluent guidelines which serve as the basis for discharge permits should be increased as EPA begins to prepare to re-issue all discharge permits.

Also, funds for the management and audit of the construction grant program should be increased to insure the "fiscal integrity" of the municipal construction grant program.

The research and development effort, especially health effects, would receive additional funding under the recommended increase.

The Committee intends to authorize for fiscal year 1977 the expiring authorities in the Federal Water Pollution Control Act. Reauthorization for fiscal year 1976 is currently pending before the Congress at the same levels authorized for fiscal year 1975. Appropriation Acts for fiscal year 1976 and the transition quarter have carried authorizations for this program as well as all other Environmental Protection Agency programs. The Committee expects that authorization for fiscal year 1977 would continue at this same level, $903 million.

The Committee has pending before it a bill which authorizes $7 billion for waste treatment construction grants for fiscal year 1977, and an Administration bill to change the Federal share and eligibilities for such grants. We expect to consider these in the near future.

This would allow continuation of this program at approximately current levels for spending authority and outlays. Funds made available in fiscal year 1976 totaled $9 billion. Without these fiscal year 1977 funds, approximately one-half of the States run out of funds before the end of fiscal year 1977. Approximately $1.4 billion of these fiscal year 1977 authorizations will be obligated during the fiscal year.

SOLID WASTE

In solid waste, increased funds would be used for technical assistance and for expanding some of the research and demonstration activities of the Agency. State and local governments have increasingly requested the assistance of the Federal Government in assessing systems to be used to reduce solid waste and conserve resources. The Committee may consider legislation expanding the authorization in this area. New programs would include increased planning funds, implementation grants, small community grants, and loan guarantees.

While precise authorization levels have yet to be established, additional budget authority of $15 million for these combined programs should be sufficient to begin these efforts in fiscal year 1977.

ENERGY

The increased money available for energy activities would allow EPA to conduct further study of the health effects of energy-related pollutants, stimulate control technology to reduce such pollutants, and allow increased activities to assess the environmental problems associated with growth of various energy-related facilities. It is important that as the energy portion of the Federal budget increases and new forms of alternative energy are examined, the Environmental Protection Agency be given the resources needed to assess the impact of such projects. This will also insure that regulatory programs and control technology keep pace with such development.

NOISE

Under the noise program, no increased funds are proposed under the $127 million increase. This is principally due to the fact that the mandatory regulatory activities required by the Noise Act will have been completed in most phases by fiscal year 1977. Until the Agency fulfills these functions in a way that indicates the public health and welfare will be protected by such activities, there is little reason to increase program funds in this area.

PUBLIC WORKS COMMITTEE RECOMMENDATIONS FOR EPA BUDGET

	Committee recommendation for fiscal year 1977	Fiscal year 1976 spending authority	President's fiscal year 1977 request	Increase over fiscal year 1976 level	Increase over President's fiscal year 1977 reques
Air:					
Grants to State air pollution control agencies	61.5	54.7	51.5	7.2	10.0
Inspection and maintenance grants	4.0	0	0	4.0	4.0
Health effects research	37.7	32.7	30.7	5.0	7.0
Auto assemblyline test	1.0	0	0	1.0	1.0
New source performance standards and related work	9.0	8.0	8	1.0	1.0
Training grants	1.0	3.0	0	−2.0	1.0
Stationary source enforcement	11.8	9.2	9.8	2.6	2.0
Transportation planning grants (new)				35.0	35.0
Stratospheric ozone research				4.0	4.0
Total air increases				57.8	65.0
Water:					
Construction grant audit	28.5	22.5	26.0	6.0	2.5
208 areawide planning	75.0	53.0	15.0	22.0	60.0
State program grants	60.4	44.5	40.0	14.9	20.4
Water quality standards planning	18.1	32.4	14.9	−14.3	4.8
Enforcement	25.0	19.8	21.2	5.2	3.8
Ecological effects	25.0	19.5	18.9	5.5	6.1
Total water increases				39.3	97.6
Solid waste:					
New programs	15.0	0	0	15.0	15.0
Existing programs	18.1	15.6	15.7	2.5	2.4
Total solid waste increases				17.5	17.4
Noise: No change recommended.					
Total increases for air, water, solid waste, and noise				114.6	
Total increases all EPA program				132.3	180.0

Mr. MUSKIE. I do want to mention two specific programs that are discussed in the report of the Appropriations Committee.

This bill provides for continued funding of the long-range areawide waste treatment planning program under section 208 of Public Law 92–500. The $15 million provided here, when combined with $137 million of impounded funds ordered released by the courts, should be an adequate level for the 208 program for fiscal year 1977. I am pleased to note, however, that the committee report states that this funding level would be reappraised should release of the $137 million be delayed by appeals.

I strongly support the decision of the Senate Appropriations Committee to reject the language in the House bill which would restrict the 208 money, as well as funds that were provided for fiscal year 1976, to 75 percent Federal share. Both the House and Senate have approved authorizing legislation which would continue the 100 percent start-up grants for 208 agencies until such time as all designated agencies receive an initial grant. Thereafter, grants would be provided at a "maintenance" level of 75 percent. The action of the House in this appropriations bill would disrupt the legislative process currently underway and would also interfere with the proper implementation of the 208 program.

I commend the action of my colleagues on the Appropriations Committee in resisting this effort of the House, and I urge them to maintain this position in conference.

Although more than $8 billion of the $18 billion allotted to the individual States has not been obligated, at least 22 of the States will have obligated their full allotment of funds and will run completely out of funds before the end of fiscal year 1977.

The House and Senate Public Works Committees have recognized this, and each has reported legislation authorizing $5 billion to be allotted to the States and obligated for specific projects. The first concurrent resolution also recognized this need and targeted $6 billion for this program.

Because work has not been completed on authorizing legislation, there are no appropriations provided in this bill for construction grants. The need is clearly there, and an appropriation will be required.

I should point out that a full appropriation of the authorization will be required to enable allotment to the States to take place; however, no one anticipates obligation of all the funds. EPA's estimate of actual obligation pursuant to a $5 billion authorization and appropriation is $1.5 billion.

I would like to say briefly, in connection with that item, that I would like to focus particularly on the need which has now been approved in the budget resolution and in both Houses for additional budget authority of $5 billion to continue the ongoing waste treatment construction program. The authorization bill has not finally been acted upon, and it is for that reason, as I understand it, that this bill does not provide anything for that program.

Mr. PROXMIRE. That is correct.

Mr. MUSKIE. This general statement indicates the need to do so. I would like to compliment the Senator for his continuing interest in these environmental programs. The administration, this administration, has never been very generous to these programs, has never really been enthusiastic about them, but this bill before us reflects increases above the administration's request, for which I am appreciative.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I compliment the Senator from Maine on the very difficult decisions he has had to make as both chairman of the Budget Committee and a great champion of various environmental programs. I know it is not easy for him to have to reconcile these painful priorities. I think he has done it well, and I am sure he will fight for everything he can get for the environmental programs, while at the same time recognizing the necessity of budget restraint. What I am trying to say is that the Senator from Maine is being very consistent.

Mr. MUSKIE. I have to accept this discipline for the program in which I am interested if I am to be credible when programs in which other Senators are interested are subjected to that discipline.

I would like to mention specifically one in which I was tempted to offer an amendment. That had to do with a program for grants to State air and water pollution control agencies. I was tempted to offer an amendment, but I am not going to, for the reasons we have just discussed.

This bill should add $20 million to the program for grants to State air and water pollution control agencies to be equally divided between air and water. The President's request for water pollution control agency grants for fiscal year 1977 was $40 million, down from congressional appropriations for fiscal year 1976.

The House added $4 million to restore State grants for air quality to the 1976 level of $55 million. The House added $10 million to restore water State agency grants to the 1976 level of $50 million. That $14 million increase was agreed to by the Senate Appropriations Committee.

My amendment was to be offered in the belief that grants to State air and water pollution control agencies should be top priority among resource needs in environmental protection programs. Grants to State air control agencies have remained at $51.5 million since fiscal year 1972. It was only in fiscal year 1976, as a result of the new Budget Act which made it possible to override the President's impoundment of congressional appropriations, that the level was increased to $55 million.

That modes increase was not enough to counter the effects of inflation over the last 4 years. Nor was it enough to provide the resources needed for States

to assume the increased responsibilities we have placed upon them through environmental protection laws passed in the last few years.

We want the States to be the principal agencies implementing the Clean Air Act of 1970 and the Federal Water Pollution Control Act of 1972. Unless we provide adequate resources, implementation will not occur as effectively as it should. Enforcement action against polluters will not occur in cases where they are justifiable and needed. Permits for new sources and monitoring of existing permits will not occur as rapidly as needed. Local governments will have greater difficulty in submitting proper applications for water pollution control grants because of the lack of State personnel to provide technical assistance in formulating such applications.

The list of pollution control activities that are restricted because of inadequate funding of State agencies could go on and on. But perhaps the most useful fact is that the Environmental Protection Agency requested much more for this program from the President than I am requesting in the amendment I have proposed. In the EPA request for fiscal year 1977 funds, the agency asked for an increase of $58 million for air and water State control agency grants combined. My request is for approximately one-third that increase. The Appropriations Committee has added some funds, and I want to exercise restraint in the amount of the increase I am proposing

I think Senators should be aware that without substantial resources for State programs, more and more pollution control activities will have to be shouldered by the Federal Government. This does not correspond with the views I have heard from other Senators regarding the direction these programs should take. But State and local agencies will resist accepting a greater share of these programs unless they have adequate resources to implement the activities necessary.

Before offering this amendment, I made a careful examination of the budget totals to assure myself that my own action would in no way jeopardize the targets contained in the first concurrent resolution or the targets assigned by the Appropriations Committee to its various subcommittees. After examining this, I have become assured that the very modest amendment I am proposing can be added to this appropriations and still leave the total far below the targets assigned in the resolution or to the Appropriations Subcommittee.

There are a number of programs within this appropriations bill which will need to be covered by supplemental appropriations due to the fact that authorizations have not yet been passed. Even if all of these programs are funded at the highest reasonable estimate of their potential costs, there will be more than adequate room under the targets to absorb the $20 million amendment I am proposing. Even if EPA water construction grants are funded at the highest level now under consideration by the Public Works Committee—$5 billion and the veterans' cost-of-living increases are assumed at the highest end of the estimates—$1.5 billion, and the VA pension and reform and medical legislation is funded at the highest estimate—$0.7 billion, there will still be $2.3 billion remaining in budget authority under this subcommittee's allocation before that allocation is exceeded. Though outlays are somewhat tighter, the statement holds true there as well.

There are many other areas where EPA programs ought to be increased. I have not chosen to offer amendments in those areas because I believe we must be restrained in the increases we propose on these appropriations bills. I have resisted increases on other appropriations bills where I thought increases would jeopardize the targets assigned to the Appropriations subcommittees by the full committee.

I would oppose any such amendments on the bill before us, and it was only after being assured that this amendment would not create such a problem that I decided to offer it to the Senate. As chairman of the Environmental Pollution Subcommittee, I bear the responsibility of insuring that the programs we have authorized by law receive adequate resources to implement those programs. As chairman of the Budget Committee, I have the responsibility, shared by other members of the committee and by the Congress as a whole, to be sure that the actions I take while wearing one hat do not conflict with the actions taken while wearing another hat.

There is pressure in Congress, as the Senator knows, to turn more and more of the responsibility in these environmental programs over to State and local agencies. At the same time, if we want them to be able to assume those responsibilities we have got to help them find the resources to administer and implement the program. Because of the lack of enthusiasm on the part of the administration, we have not really done the job that we should do, and I hope that the Senator from Wisconsin, the floor manager of this bill, and the chairman of the subcommittee, will bear in mind the points that I have made in the statement so that maybe in a supplemental appropriation or somewhere down the line he can find the resources to put into this program. I appreciate his sympathy and his support toward that objective.

Mr. PROXMIRE. I thank the Senator very much.

UP AMENDMENT NO. 113

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

The PRESIDING OFFICER (Mr. ALLEN). The clerk will please state the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment: On page 27, lines 20 and 21, strike "$399,134,000" and insert "$399,131,000".

Mr. PROXMIRE. Mr. President, this is a Government Printing Office mistake we are trying to rectify by inserting the correct figures.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

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

Mr. MATHIAS. I yield back the time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senators from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, one of the longstanding interests of the chairman of the subcommittee has been the question of limiting the use of limousines. It is an effort in which I have seconded him and supported him with great enthusiasm, particularly since he sets such a frugal example himself by jogging to work every day.

I think all those who sit on the back seat of limousines with the little light so that they can read the funny papers to and from work should really take notice.

But in this matter, as in all matters, reason is the light of the law. We have to recognize that there are some occasions when it is appropriate for the Government to furnish transportation to employees.

It was said in history books that although there was a great deal wrong with the empire of Genghis Khan that in Genghis Khan's time a virgin carrying a bag of gold could go from one end of the empire to the other with total safety, without any danger of being molested.

While we can say many good things about our country and our time, we cannot say that about the city of Washington.

There are occasions when secretaries have been kept late at work, when they have to go home through the streets of of the city at a late hour, and their personal safety may be jeopardized.

I would not want the measures that we have taken in the committee on the abuse of the use of limousines to be taken to limit the ability of Government agencies to provide the necessary transportation, whether it be reimbursement for taxi cab fares, or similar methods, which are really directed at the safety and security of secretaries.

Mr. PROXMIRE. If the Senator will yield, I will be glad to agree to that.

I say to the Senator from Maryland, he does not jog to work, but he does drive a 1903 Buick—maybe not 1903, but pretty close to it. It looks like it.

Mr. MATHIAS. It is very close to it, Mr. President. Very close to it, but it got here this morning and I hope it will get me home tonight.

UP AMENDMENT NO. 114

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) and the Senator from Tennessee (Mr. BROCK) propose an unprinted amendment numbered 114: On page 28, line 7, after the word "Hospital" insert "and $460,000 shall be available for the design of a new clinical building at the Mountain Home, Tennessee, Veterans' Administration Hospital."

Mr. MATHIAS. Mr. President, I offer this amendment on behalf of the Senator from Tennessee (Mr. BROCK), on which I asked to be a cosponsor.

This amendment does not add any funds to the Veterans' Administration, construction, major projects account. The $460,000 is a reprograming of funds that were allocated in the original fiscal year 1977 VA budget to the VA hospital in Seattle, Wash. The budget having been amended, the House bill and Senate committee bill now reflect this amendment which adds $6,800,000 for funding leading to construction of a new, replacement VA hospital at Seattle. Therefore, the $460,000 previously budgeted for Seattle is no longer required, and can be reprogramed within the totals provided by the committee bill.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement that explains the need for the new clinical support facility at the VA hospital at Mountain Home, Tenn.

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

The hospital facilities at Mountain Home, Tennessee, Veterans' Administration Hospital, were constructed in 1903–1905 and 1937. Minimum space was provided for clinical activities in the construction at that time. Over the past few years an increased workload in clinical support activities as a result of advances in medical treatment and outpatient services has compounded the initial space inadequacies. At the present time clinical support and ancillary functions including the surgical suite, recovery room, laboratory service, radiology service, pharmacy, ambulatory care, outpatient and key administrative support functions are widely dispersed in several buildings in inadequate and poorly aligned space. For example, laboratory funtions are located in two separate buildings and the recovery room is located two floors distant from the surgical suite. This separation of clinical and other support facilities results in inordinate travel time and has been a detriment to recruitment to physician staff.

It is proposed to construct a new clinical support facility which would provide adequate space for a modern functional surgical suite, recovery room, surgical intensive care complex, laboratory, nuclear medicine and radiology services, pharmacy, and selected ambulatory care, outpatient and medical administrative support functions. This project will bring these functions together in one building in a central area and optimize travel time to and from patient occupied buildings.

Mr. PROXMIRE. If the Senator will yield briefly, as I understand it, this amendment would use money that would not be used in Seattle, the funds would be transferred to a hospital facility in Tennessee.

This has been discussed, I understand, with the senior Senator from Washington and, of course, the Senator from Tennessee, and I am willing to accept the amendment.

Mr. MATHIAS. I am advised the Senator from Tennessee has discussed it with the Senator from Washington.

I thank the Senator.

The PRESIDING OFFICER. Is all time yielded back?

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 115

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 115: On page 25, line 25, strike out "$4,222,232,000" and insert in lieu thereof "$4,218,032,000".

On page 26, lines 12 and 13, strike out "$97,433,000" and insert in lieu thereof "$101,633,000".

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee's Subcommittee on Health and Hospitals, I would like to comment on those portions of H.R. 14233 which would appropriate funds for the Veterans' Administration's hospital and medical program. I will also introduce one noncontroversial amendment to the committee bill, which I will explain in detail in a moment.

For several years now, the distinguished chairman of the Committee on Veterans' Affairs (Mr. HARTKE) and I have submitted annually to the Appropriations Subcommittee on HUD-independent agencies our suggestions and recommendations on the next fiscal year's appropriation for the VA hospital and medical program. The cooperative relationship between those of us on the Veterans' Affairs Committee and the members of this Appropriations Subcommittee on VA health matters has been very gratifying to me, and highly beneficial to the millions of veterans who are served by these two committees. I am most grateful to Chairman PROXMIRE and my good friend from Maryland, the ranking minority member of the Appropriations Subcommittee (Mr. MATHIAS), for their counsel and consideration.

Mr. President, on June 4, Senator HARTKE and I recommended that the President's proposed appropriation for VA medical care of $4.172 billion be increased by $54 million, to account for workload underestimates for fiscal years 1976 and 1977 contained in the President's budget, and for other purposes. Our reasons for requesting the additional $54 million sum were contained in a letter and accompanying memorandum to the chairman of the Appropriations Subcommittee. Mr. President, I ask unanimous consent that our letter and justification statement be printed in the RECORD at this point.

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

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C. June 4, 1976.

Hon. WILLIAM PROXMIRE,,
Chairman, Subcommittee on HUD-Space-Science-Veterans Appropriations, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: This letter contains our recommendations on fiscal year 1977 appropriations for the Veterans' Administration hospital and medical care program and for the staffing needs of its Department of Veterans Benefits.

VA HOSPITAL AND MEDICAL PROGRAM

Our recommendations specifically concern the seven appropriation accounts for the VA hospital and medical program: (1) medical care, (2) medical and prosthetic research (including research and development in health services), (3) medical administration and miscellaneous operating expenses, (4) health manpower training assistance, (5) construction, (6) grants to the Republic of the Philippines, and (7) grants for construction of State extended care facilities.

In weighing overall veterans' medical care priorities and in light of existing economic and budget circumstances, we believe that the President's overall request of $4,835,600,000 (including the recent $268,316,000 construction supplemental request) deserves the full support of your Subcommittee, the full Committee, and the Senate. This request, with the minor modifications we are recommending in this letter, represents a meaningful commitment to the VA health care program, and is consistent with the unequivocal bipartisan support that has always characterized the approach of the Administration and of our respective Committees to the maintenance of a strong and independent system of VA hospitals, clinics, nursing homes, and domiciliary facilities.

1977: A CRITICAL YEAR FOR THE VA HEALTH CARE SYSTEM

We are aware that appropriations for the coming fiscal year must be considered in the context of developments in the VA's health care capacity in the recent past, the unique budgetary considerations affecting the operations of our Committees under the new Congressional Budget Act, and the plans which we are now formulating for the future of the VA health care system.

During the six-year period from fiscal year 1963 to 1969—a period corresponding to the height of this country's involvement in the Indochina war—VA expenditures on health-related programs rose less than $0.4 billion (from $1.2 billion to $1.55 billion). It was clear to us in 1969 that the ability of the VA hospital system to cope with the enormous number of wounded veterans resulting from five years of full-scale fighting in Indochina would be seriously compromised without substantial increases of money and staff to improve the comprehensiveness and quality of services available to veterans in VA hospitals. With the concurrence and assistance of the Appropriations Committee, Congress embarked on a seven-year period of sustained growth for the VA health care system. Between fiscal years 1969 and 1976, the VA's health care budget has tripled (from $1.55 billion to approximately $4.8 billion this year), including funding for an additional 45,000 health care personnel. Today, we believe that the VA hospital system has virtually caught up with the demands of the Indochina War era, and we take pride in the manner in which the VA's Department of Medicine and Surgery has coped with one of the most difficult transition periods in its history—the transition from wartime to peacetime after the longest and most divisive war of the twentieth century.

With that task largely completed, we must turn our attention today to a new set of problems and challenges. With inflation eroding the purchasing power of the Federal dollar and with the imperative of keeping overall Federal expenditures within the targets and limits under the Congressional budget process, we must concentrate not on expanding the capacity of the VA health care system, but on ensuring the efficient utilization of resources that already exist. We believe that

it is time to take a searching look at the present priorities within this enormous system of hospitals and other facilities, and to establish new priorities for the allocation of VA resources in order to redirect care and expenditures for the benefit of veterans with the strongest claim to treatment, at Government expense, in VA health care facilities.

We have devoted much of our attention and effort this Spring to the articulation and ment of Medicine and Surgery stressing the development of a new policy for the Departmore efficient utilization of existing resources within the limits of current capacity and current spending ceilings. We have introduced, held hearings on, and reported from Subcommittee (on May 25) major legislation (S. 2908, the proposed Veterans Omnibus Health Care Act of 1976, described in more detail below) to augment this new policy. We believe that 1977 will be a critical year in the development of the Department of Medicine and Surgery—a year in which the Department will constructively come to grips with the new realities respecting Federal spending and will be required to allocate its resources more prudently without reducing the quality or availability of essential medical services.

In light of the foregoing considerations, we offer the following recommendations for the VA hospital and medical program appropriations for fiscal year 1977.

RECOMMENDATIONS FOR PROGRAMS ALREADY AUTHORIZED

As indicated in the March 15, 1976, report by our Committee to the Senate Committee on the Budget (pursuant to section 301(c) of the Congressional Budget Act of 1974, Public Law 93-344), a corrected print of which is enclosed for your information*, we carefully reviewed the seven VA hospital and medical program appropriation accounts in question and concluded that the medical needs of veterans required increases over the President's budget request totalling $114,300,000 in budget authority and outlays for programs already authorized by law. This would have represented an increase of 2.5 percent over the $4,567,300,000 proposed in the President's January budget. A detailed breakdown of the Committee's recommended increases is set forth under item IV.D. on pages 12-14 of the enclosed Committee Print.

In the March 15 report to the Senate Budget Committee, our Committee recommended outlays in Function 700 ("Veterans Benefits and Services") totalling $20.4 billion for fiscal year 1977.

Even though final Congressional action on the First Concurrent Budget Resolution reduced Function 700 outlays below the recommendations of our Committee, we believe that the outlay target of $19.5 billion provides latitude for modest increases over hospital and medical program levels recommended by the President. The amounts we recommend are reduced considerably from the amounts we included in our March 15 letter to the Budget Committee, and are, we strongly believe, necessary to prevent erosion in the quality of care available to veterans in the VA health care system.

We therefore recommend that VA hospital and medical program appropriations for fiscal year 1977 be increased $72,500,000 for programs already authorized, an increase of 1.4 percent over the $4,835,600,000 requested in the President's amended budget. The amount we recommend is $41,800,000 less than our March 15 recommendation to the Senate Budget Committee. Our recommendations are summarized and explained in the Attachment to this letter.

*One line of text was inadvertently omitted on page 12 of the printed report; that text has been added in the margin in the copy of the report enclosed with this letter.

BUDGET RECOMMENDATIONS FOR NEW PROGRAMS

As described on pages 7-8 of the enclosed Committee Print, the Committee now has under active consideration S. 2908, the proposed Veterans Omnibus Health Care Act of 1976, and many of its provisions have already been favorably reported from the Subcommittee on Health and Hospitals. This major bill has two primary purposes. First, it would shape a new direction for the Department of Medicine and Surgery by emphasizing better and more comprehensive treatment primarily for service-connected veterans and primarily within the limits of existing resources, programs, and facilities. Among the key provisions of S. 2908 designed to serve this purpose are provisions to (1) require periodic reviews of beneficiary travel reimbursement rates to ensure that veterans receiving care for service-connected disabilities get the highest reimbursement priority; (2) expand eligibility for total VA health care benefits to include all veterans with service-connected disabilities rated at 50 percent or more (under current law, eligibility is limited to those with disabilities rated at 80 percent or more); and (3) establish a statutory system of priorities for outpatient care stressing treatment for veterans suffering from service-connected or catastrophic disabilities.

The bill's second major purpose is to authorize three new medical program directions to deal particularly with veterans with serious service-connected disabilities: (1) a program of readjustment professional counseling to assist recently-discharged veterans suffering from societal readjustment problems; (2) an innovative and cost-effective program in preventive health care for service-connected disabled veterans; and (3) a comprehensive alcohol and drug abuse treatment and rehabilitation program.

Based on cost estimates provided to the Committee by the Congressional Budget Office, we estimate that enactment of S. 2908 (including several cost-saving modifications) will entail additional expenditures in fiscal year 1977 of approximately $38,000,000 (including $6,000,000 for extension of the P.L. 94-123 special pay program). (This represents a reduction of about $78,000,000 from the Committee's preliminary cost estimate of $116,000,000 on page 7 of the Committee Print.)

Enactment of other health care legislation now pending before the Committee is expected to entail fiscal year 1977 expenditures of approximately $15,000,000, principally for increases in State home per diem rates (H.R. 10394).

STAFFING OF THE DEPARTMENT OF VETERANS' BENEFITS

With respect to the General Operating Expense (GOE) appropriation, we believe, as noted in the March 15 report to the Budget Committee, that the Administration's request of $512,447,000 is insufficient and should be increased by $30,000,000, an increase of 5.85 percent. We understand that this would increase GOE appropriations to the level of spending originally proposed by the VA to the Office of Management and Budget. This increase would bring the VA into compliance with the statutory formulas for the Veterans' Representative program by funding the 1,682 more of these personnel which the General Accounting Office has found to be required by 38 U.S.C. 243 to collect G.I. Bill overpayments and help curb G.I. Bill abuses.

An additional summary and explanation of our recommended GOE increase is contained in the Attachment to this letter.

SUMMARY

We recommend your favorable consideration of fiscal year 1977 appropriations for the VA hospital and medical care program of $4,908,100,000. This includes the $4,835,600,000 proposed in the President's amended budget request, and $72,500,000 in additional appropriations for programs already authorized. We also recommend an increase of $30,000,000 for General Operating Expenses.

We and our staff will be pleased to answer any questions or supply any information you or your staff may request with respect to the recommendations contained in this letter.

Thank you very much for your interest and attention.

Sincerely,

VANCE HARTKE,
Chairman.

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

DETAILED JUSTIFICATION AND SUMMARY OF FISCAL YEAR 1977 APPROPRIATIONS RECOMMENDATIONS SUBMITTED TO THE APPROPRIATIONS COMMITTEE BY SENATORS HARTKE AND CRANSTON

Appropriation item	Appropriations (millions)		
	Proposed by President January 1976 and May 1976	Recommended in Veterans Affairs Committee Mar. 15 report to Budget Committee	Recommended to Appropriations Committee, June 1976
Medical care	$4,172.2	+$95.8	+$54.0
Medical and prosthetic research	97.4	+7.4	+7.4
MAMOE	39.9	+.6	+.6
Assistance for HMT Institutions	35.0	+10.5	+10.5
Construction [1]	478.9	+0	+0
Grants to the Republic of the Philippines	2.1	+0	+0
Grants for construction of State facilities	10.0	+0	+0
VA hospital and medical programs, subtotals	[2] 4,835.6	+114.3	+72.5
General operating expenses	542.2	+30.0	+30.0

[1] Includes the President's $268,300,000 supplemental request of May 1976.
[2] Does not add up precisely because of rounding.

JUSTIFICATION

VA hospital and medical program

Medical Care: We recommend an increase of $54,000,000 in appropriations for medical care over the $4,172,232,000 proposed by the President, to be allocated in five areas as follows:

a. Staffing to meet workload underestimates. Additional staff is needed to meet unbudgeted out-patient workload increases. (See page 12 of the enclosed Committee Print; hereinafter all page references, unless otherwise noted, are to the Print.) We originally recommended $68,900,000 for projected increases in both inpatient and outpatient workloads.

We now believe that $40,000,000 will be sufficient for these purposes, all to support increased unbudgeted staff outpatient visits. Originally, we had projected that unbudgeted outpatient visits would reach 1,000,000 by June 30, 1976. Now, however, that appears to have been somewhat of an overestimate due to some controls which the Department of Medicine and Surgery has begun to implement.

An increased outpatient staff visit level of almost 600,000 has already been experienced through April 30, 1976, above the number of staff visits projected for FYs 1976 and 1977 in the President's budget. The best available estimates are that by the beginning of FY 1977, or shortly thereafter, unbudgeted outpatient visits will have reached 1,000,000. By that time, we hope that enactment of S. 2908, the proposed Veterans Omnibus Health Care Act of 1976, will bring the sharp rise in outpatient staff visits under control.

We, therefore, urgently request an additional appropriation of $40,000,000 to meet unbudgeted staff outpatient workload increases which will be realized almost entirely before the beginning of the next fiscal year.

b. New activitations. The activation of 2,068 hospital and 583 nursing home care beds is scheduled in fiscal year 1977. However, the President's proposed budget includes no funds for staffing of these new activations. (See pages 12–13.) We originally recommended $14,000,000 to staff facilities according to present activation schedules. We now believe that, in view of budgetary constraints, the VA health care system can adapt to a slower rate of activation of new beds, and we therefore recommend an increase of $7,000,000—one-half of our original recommendation—be appropriated in fiscal year 1977 for this purpose.

c. Hospital mission change. The conversion of several unaffiliated VA hospitals into rapid-turnover, acute-care facilities, and of psychiatric hospitals into general medical and surgical hospitals, is scheduled to continue during fiscal year 1977. (See page 13.) However, no funds were included in the President's budget for the necessary increase in staffing as a result of these conversions. We originally recommended an outlay increase of $4,800,000 to cover the cost of additional staffing. Again, we feel that, in view of budgetary constraints, the VA can proceed at a slower pace with these conversions, and we therefore recommend an increase of $2,400,000 in fiscal year 1977, or half of our original recommendation, for this purpose.

d. Education and training. New affiliations with medical and dental schools during the coming fiscal year will generate a need for additional residency and training program positions in VA health care facilities. However, the President's budget projects no increase in the number of training positions. Nor does it provide funding for a new Regional Medical Education Center. (See page 13.) We originally recommended $7,000,000 for these purposes. In line with a slower rate of implementing new affiliations, as suggested above, we recommend an increase of $3,500,000, half of our original recommendation, for this purpose.

e. Alcohol treatment units. We originally recommended increased outlays of $1,100,000 to support five new alcohol treatment units (ATU's) in those geographical areas most in need of such units. (See page 13.) In light of the extremely high incidence of alcoholism and alcohol-related infirmities among veterans treated in VA hospitals, we strongly believe that the full amount of our initial recommendation—$1,100,000—should be added for this purpose.

Medical and Prosthetic Research: We recommend an increase of $7,400,000 over the fiscal year 1977 budget request for research of $97,433,000 proposed by the President.

The VA's medical and prosthetic research budget has not grown in real dollar terms since fiscal year 1975, and for two consecutive years the Committee's report to the Senate Budget Committee has expressed grave concern over the potential damage done by a "standstill" research budget. Unless additional funds are provided for the research program, the Committee noted in this year's report, "that program is likely to suffer grave and potentially irreparable damage, to the detriment of the VA's entire medical care efforts." (See page 14.)

We therefore recommended in the March 15, 1976, letter an additional $7,400,000 in outlays for research for fiscal year 1977. We believe this remains an urgent need.

Assistance for Health Manpower Training Institutions: We urgently recommend an increase of $10,500,000 over the fiscal year 1977 budget request of $35,000,000 proposed by the President. This is the full amount of the Committee's original recommendation. (See page 14.)

Pursuant to the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972 (now codified as chapter 82 of title 38, United States Code), the VA is authorized to make grants to affiliated health manpower training institutions to expand the training capacities of those institutions and foster closer affiliations with the VA health care system. Almost $15,000,000 worth of grants have been approved, but, because of lack of funds, not yet been made. This backlog of approved but unfunded grants is expected to grow to more than $24,000,000 by June, 1976. The President's budget proposes no funds to reduce the backlog. Therefore, we continue to urge an increase of $10,500,000 for this purpose.

Medical Administration and Miscellaneous Operating Expenses (MAMOE): We recommend an increase of $600,000 over the fiscal year 1977 budget request of $39,941,000 proposed by the President. This is the full amount of the Committee's original recommendation. (See page 14.) (Included in our MAMOE recommendation is the $3.5 million for the Exchange of Medical Information program requested by the President. The appropriation of this amount is authorized in H.R. 3348 which has passed the House, been reported from our Committee, and is pending on the Senate calendar. We expect favorable floor action early next week and concurrence by the House immediately thereafter.)

VA Department of Veterans Benefits staffing

We recommend that expenditures for General Operating Expenses (GOE) be increased $30,000,000 over the amount recommended in the Presidents January budget.

The $542.4 million originally requested by the VA for GOE (reduced from field estimates of $546.8 million and the departmental and division estimates of $545.1 million) should be restored in order to allow the Department of Veterans Benefits (DVB) sufficient resources to carry out its program responsibilities properly and in compliance with law. In particular, this amount is urgently needed to deal with the growing problem of overpayments resulting, in part, from an inadequate number of VA personnel either to process program changes or to monitor compliance by schools and veterans with the law. In a recent report to Congress, submitted on March 19, 1976 (B114859), the General Accounting Office (GAO) cited a "billion dollar problem" resulting from rapidly escalating GI Bill overpayments. GAO reported that, whereas, in fiscal year 1967 overpayments represented 0.7 percent of the VA's total educational benefits paid, in the first 6 months of fiscal year 1976 overpayments represented 15.6 percent of total benefits paid.

Section 243 of 38 U.S.C., which we authored in 1974, requires the Administrator to assign one full-time Veterans' Representative (Vet Rep) for each 500 persons enrolled in GI Bill educational programs (excluding training by correspondence). The law directs that Vet Reps are to be stationed at schools or in VA offices in direct support positions with responsibility for identifying and resolving various VA educational assistance allowance problems. Vet Reps are given a statutory responsibility to "assure correctness and proper handling of applications, completion of certifications of attendance, and submission of all necessary information (including changes in status or program affecting payments) in support of benefit claims submitted. . . ."

Pursuant to a request by our Committee, the GAO recently conducted a survey of Vet Reps and reported that an examination of school enrollment figures demonstrated that 2,965 Vet Reps were required for the nearly 1.5 million veteran students in receipt of GI Bill benefits. However, the GAO survey revealed that, in fact, there are only 1,283 Vet Reps currently employed by the VA, that is 1,682 fewer Vet Reps than specifically required by law. The $30 million we are requesting in additional GOE appropriations would bring about compliance with the full Vet Rep staffing formula prescribed by law and, as a result, could be expected to reduce significantly the high incidence and amount of veteran overpayments or incorrect payments.

The consequences of the VA's failure to comply with the law can be startling. Most recently, officials at one vocational school in Chicago, which has had an enrollment of 1,367 veterans, were indicted by a Federal grand jury for GI Bill fraud. VA officials presently estimate losses to the Government, as a result of fraud at this one school, of at least $6.7 million with expectations that this estimate will be revised upward. The VA has acknowledged that, despite the large veteran enrollment, no Vet Rep has ever been assigned to that school.

We believe that fraud of this alleged magnitude would not have occurred if one or more Vet Reps had been assigned to the school as directed by the statute. Without such active monitoring both of potential fraud cases and of tardy or incorrect compliance with VA regulations by veterans or schools, we believe that this "billion dollar problem" will only grow worse.

In summary, the savings to be achieved by reduced overpayments are many times in excess of the $30 million GOE increase we are seeking for the hiring of a sufficient number of DVB Vet Rep personnel.

Mr. CRANSTON. Mr. President, when H.R. 14233 was reported from Subcommittee on June 8, we were delighted to see that, pursuant to our recommendations, $50 million had been added to the VA medical care appropriation. We believe that the appropriation of these additional sums will have a major beneficial impact on the quality of care available to veterans in VA health care facilities, and we are most grateful to the members of the Appropriations Subcommittee for adding this sum for fiscal year 1977.

Nevertheless, one other item which we requested in our June 4 letter was not agreed to by the Appropriations Subcommittee—the additional appropriation of $7.4 million for the VA medical and prosthetic research program. I felt so strongly about this that on June 11 I wrote a second letter to the subcommittee chairman urging the appropriation of $4 million for VA research—a reduced sum, but sill, I believed, enough to make a significant difference to the VA's biomedical research effort in fiscal year 1977.

On June 21, Chairman PROXMIRE informed me that, although he felt that my June 11 letter had made "an excellent case" for a research add-on, he did not want to increase further the overall VA hospital and medical appropriation, and, therefore, he could not recommend the appropriation of additional sums for research beyond the amounts contained in the President's budget.

Mr. President, I ask unanimous consent that the text of my June 11 letter to Chairman PROXMIRE and the text of his June 21 reply be printed in the RECORD at this point.

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

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 11, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Space-Science-Veterans Appropriations Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to express my gratitude and appreciation for the recent decision of your Subcommittee to add $50 million to the amount requested by the President for Veterans' Administration medical care in fiscal year 1977. Your approval of this additional sum, which is almost the full amount Senator Hartke and I recommended for medical care in our letter of June 4, will contribute significantly to the health and well-being of the 3,000,000 veterans who depend upon the VA for their health care.

The $54 million we recommended be appropriated, in our June 4 letter for FY 1977 for veterans medical care was designated for five categories: staffing to meet outpatient workload underestimates, new activations, changes in hospital mission, education and training, and establishment of alcohol treatment units. I very much hope that in your Committee Report on H.R. 14233 you will indicate these specific categories as the targets of the additional $50 million. Since alcholoism and alcohol-related medical infirmities account for so enormous a proportin of VA hospital admissions nationally and in my own State of California, I particularly hope you will direct that the full amount we recommended—$1.1 million—be allocated for the establishment of new alcohol treatment units.

The following language for the Committee Report would achieve the above purposes with respect to the allocation of the $50 million increase:

"The $50,000,000 added to the President's budget request for veterans medical care follows the recommendations submitted to this Committee on June 4 by the Chairman of the Veterans' Affairs Committee and that Committee's Subcommittee on Health and Hospitals. Of this total sum, $30,000,000 should be used to support outpatient staffing increases and $20,000,000 to support staffing needs to achieve new activations and hospital mission changes, the addition of house staff (especially to support new activations), and establishment of alcohol treatment units.

"Particularly, the Committee designates $1,100,000 from outpatient and inpatient medical care funds to support the establishment of five new alcohol treatment units in those geographical areas most in need of such units to help meet the extremely high incidence of alcoholism and alcohol-related disabilities among veterans treated in VA hospitals."

Although I am delighted with your Subcommittee's action with respect ot the medical care item, I remain most concerned about your decision not to increase the appropriation for medical and prosthetic research above the straight-line amount requested by the President. The VA's medical and prosthetic research budget has not grown in real-dollar terms since fiscal year 1975. This fact, combined with the exclusion of physician researchers from special pay under the provisions of Public Law 94-123, last year's physician and dentist pay comparability law, has seriously undermined the strength and morale of the VA's medical research effort. (We will be attempting to rectify legislatively the researchers' exclusion from special pay.)

In fiscal year 1976, appropriations for VA medical and prosthetic research totalled $97,356,000, divided as follows: $90,012,000 for medical research; $3,757,000 for prosthetic research; and $3,587,000 for research and development in health services. Medical research, therefore, accounted for 92.5 percent of the total research budget. The President's standstill budget for fiscal year 1977 would reallocate these funds so as to increase the prosthetic research program by $1,689,000 (an increase of 45 percent); to $5,446,000. The program of research and development in health services would be cut by $483,000, to $3,104,000. The medical research program would be slashed by $1,129,000, to $88,883,000.

The seriously deteriorating situation with respect to the VA medical research program is illustrated by the deep cuts, necessitated by the President's shortsighted budget request, in the initial medical research targeting allowances for the Transition Quarter and FY 1977 assigned to VA hospitals last month—averaging an approximately 12 percent reduction in the level of research funding for individual hospitals during the Transition Quarter, and a further proposed reduction of between 12 and 15 percent for FY 1977. If the President's budget request for medical research is sustained, therefore, real-dollar spending on medical research will drop as much as 25 percent during the next six-month period, thus threatening a severe disruption of the recruitment and retention of physicians and clinical researchers during the summer recruiting season.

The VA's modest investment in medical research pays dividends that extend well beyond the considerable scientific merit and contribution of the work done. Research monies and facilities are essential to the recruitment and retention of first-rate physicians, and are also an important part of the valuable affiliations between VA hospitals and medical schools. If the research program is allowed to stagnate, the VA runs the intolerable risk of losing its top physicians, precisely at the time when it can least afford to see them go.

Our June 4 letter recommended the additional appropriation of $7.4 million in medical research funds for FY 1977, an amount that represented, in our opinion, a very minimal increase over the amount in the President's budget—especially considering the standstill level since FY 1975. Although I believe a somewhat lower amount would be acceptable, although not desirable, as described in more detail below, I feel very strongly that some increase is absolutely essential to demonstrate Congress' continued interest in and support for a viable VA research program.

A reduced acceptable increase in research funds would be a figure of $4.2 million. This would permit the Department of Medicine and Surgery to fund the most pressing of its fiscal year 1977 medical research needs—a long-planned $800,000 effort in biomedical research on spinal cord injury and related medical disabilities; $500,000 for attracting researchers and supporting research efforts at new VA hospitals or hospitals with emerging academic affiliations; and $2,900,000 for research staffing (this latter sum being the difference between the medical research portion of the medical and prosthetic research estimate for fiscal year 1976 and the reduced amount proposed by the President for medical research for fiscal year 1977).

However, a $4.2 million increase leaves unfunded for 1977 two major studies on hypertension—funding for which was included in our June 4 letter to bring the increase to $7.4 million. Although I believe these are important and necessary studies which can offer very valuable results to improve health care for veterans, they can be deferred to FY 1978, unlike the other research activities described above. (I also note that if we are able to enact a preventive health care program as proposed in S. 2908, the Veterans Omnibus Health Care Act of 1976, as reported from the Subcommittee on Health and Hospitals on May 25, to be effective beginning in FY 1978, these studies can effectively be integrated into the research associated with that new program.)

I urge that, when H.R. 14233 is considered in full Committee, you reconsider the critical need for a medical research increase over the funds available this fiscal year. Even the modest increase of 4 percent will mean a substantial real-dollar decrease from the FY 1976 level because of the research expenditures inflation rate. Nevertheless, I believe that the addition of $4.2 million for medical research is critically important to enable the Department of Medicine and Surgery to meet its most important research needs and to demonstrate Congress' commitment to a strong VA medical research program.

As always, I or the members of my staff are available to you or your staff should you need further information on any of the recommendations contained in this letter.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

JUNE 21, 1976.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals, Committee on Veterans' Affairs, Washington, D.C.

DEAR ALAN: Thanks so much for your helpful letter regarding the earmarking of $1,100,000 of the $50,000,000 added by the Subcommittee to the Administration's medical care request for the establishment of five new alcohol treatment units. I was also glad to receive the benefit of your views on the need for, at a minimum, an additional $4,200,000 for medical and prosthetic research.

I have directed the staff to add language to the draft report on the HUD-Independent Agencies bill which would assure the provision of $1,100,000 for alcohol treatment units. Of course this is subject to full Committee approval.

I'm afraid that I'm not in a position to recommend that the amount provided by the Subcommittee for medical and prosthetic research be increased in full committee, although you make an excellent case for such an add on. It is my strong belief that by adding $50,000,000 to the medical care request we have gone about as far as we should go in the medical area, particularly in view of a budget deficit which undoubtedly will exceed the President's estimate of $43 billion.

Naturally I'd be glad to get any further thoughts you may have on these issues or any other matters connected with this year's bill.

Sincerely,

WILLIAM PROXMIRE,
Chairman, HUD-Independent Agencies Subcommittee.

Mr. CRANSTON. Mr. President, I appreciate the reasons why the Appropriations Committee felt that it could not support the addition of any more funds for biomedical research. Nevertheless, I am still convinced that serious damage will be done to the quality of the VA's research program and thus to VA medical care, if Congress does not this year—after 3 years of approving "straight-line" medical research budgets recommended by the President—demonstrate its commitment to a thriving VA research program. The course proposed by the President will result in station research budget cutbacks of from 10 to 30 percent for fiscal year 1977.

Since the last exchange of correspondence between Chairman Proxmire and me on this subject, I have discussed this matter again with him and with officials from the VA's Department of Medicine and Surgery. On the basis of these dis-

cussions, I am prepared to introduce an amendment to H.R. 14233 that would, I believe, be acceptable to the committee, and would accomplish one of my major objectives in the research area while at the same time achieving the committee's purpose of not increasing overall VA health care funds already in H.R. 14233.

My amendment, Mr. President, would remove $4.2 million from the additional $50 million in medical care funds recommended by the subcommittee over the budget request and shift that sum to the medical and prosthetic research item in the VA budget for medical research. The add-on for medical care would thus be $45.8 million—for a total of $4,218,032,000—and $4.2 million would be added to the $97.4 million which would be appropriated for medical and prosthetic research under H.R. 14233 as reported, bringing that total to $101,633,000—of which $93,083,000 would be for medical research.

This modest addition to the research budget will not be enough even to keep up with the cost of inflation; so that, under my amendment, next year's research budget would still be less than this year's in real-dollar terms. Nevertheless, Mr. President, adoption of this amendment will at least demonstrate—along with one other action we have recently taken in the Veterans Affairs Committee—that Congress has not given up on the VA medical research program.

As chairman of the Health and Hospitals Subcommittee and as a member of the Labor and Public Welfare Committee's Subcommittee on Health under the able leadership of my colleague, the distinguished Senator from Massachusetts (Mr. KENNEDY), I have had a chance to observe the role that a strong, vibrant research program can play in promoting patient care in the hospital setting.

I am firmly convinced, Mr. President, that a strong research program is essential to the maintenance of a first-class health care system. Research facilities play an essential role in the recruitment of physicians and other health care personnel and the strengthening of the crucial affiliations between VA health care facilities and medical schools. Significantly, 40 percent of the young VA clinical research investigators remain in the VA as clinicians when they complete the special research career development training program. Another 40 percent continue to serve the VA as faculty members of affiliated medical schools.

The research program is critical also for recruiting and retaining superior clinicians who do not enter the special research career development programs. Since January 1974, for example, 280 VA clinicians have received research funds as intrinsic to their being hired.

These clinician-investigators and their scientist colleagues contribute to the quality of practice in VA facilities beyond their own patient care. They create the atmosphere of questing minds and stimulating ideas that makes for progressive medical and dental practices, that welcomes new advances but is cautious in evaluating them, and that is prepared for changing patterns of medical care.

This research atmosphere has proved especially valuable in initiating affiliations with medical and dental schools, affiliations that have done much to improve the care rendered to veterans. Access to VA research facilities and participation in VA research investigations have served to integrate completely the affiliated schools' faculties into the VA health care programs and has helped maintain the VA hospitals as a prominent positive contributor to American medicine.

Research in VA hospitals has resulted in major medical advances which have saved lives, shortened recovery times, and made hospital stays more comfortable and more successful. The Veterans' Administration medical research program has provided information leading to the virtual disappearance of tuberculosis as a major medical problem, has contributed to the rational drug treatment of major psychiatric illness, and is pioneering the prevention and treatment of significant high blood pressure. Less obvious is the indirect contribution to patient care through such scientific advances as the development of radioimmunoassays for body components and the discovery of the role of glucagon, a natural antagonist of insulin, in diabetes. Overall VA research has become a major factor in improving the detection, prevention, and treatment of disease.

I cannot stress strongly enough, Mr. President, my conviction that money spent on research is money wisely invested to improve—directly and immediately—the quality of patient care in the VA hospital system.

It was for these reasons that I proposed on June 16, during consideration of S. 2908, the Veterans Omnibus Health Care Act of 1976, in the Veterans' Affairs Committee, and the committee adopted, an amendment to provide special pay for VA clinical research title 38 physicians and dentists, all of whom devote substantial portions of their time to direct patient care. The background on this amendment is as follows:

Mr. President, Public Law 94–123, the Physician and Dentist Pay Comparability Act of 1975, authorized the Chief Medical Director to supplement the salaries of full-time and some part-time physicians and dentists by paying them special pay of up to $13,500 annually. The act also gave the Chief Medical Director administrative authority to exclude categories of physicians and dentists from receiving special pay if the Chief Medical Director found that there was no "significant recruitment or retention problem" with respect to such categories. Eight months ago, the Chief Medical Director exercised that authority to exclude five categories of physicians and dentists from special pay. The largest excluded category—accounting for 150 of the 250 physicians and dentists excluded—were the clinical researchers in the VA's research and education career development program.

These physicians and dentists hold staff positions at hospitals and devote—and I stress this, Mr. President—at least one-quarter and generally one-half of their time to direct patient care.

For the past 8 months, Mr. President, I have carefully monitored the effect this exclusion has had on the quality of the VA's medical research program. I concluded that the continued denial of special pay for clinical researchers threatens to seriously harm the strength and vitality of the VA's medical research effort. Applications for senior clinical research positions are down significantly, and the resignations by clinical researchers—1 out of every 8—since special pay began 8 months ago is jeopardizing the continuity of the research program.

Officials in the Department of Medicine and Surgery acknowledge a serious deterioration of morale among clinical researchers who are being paid $7,000 to $10,000 less than their colleagues.

To overcome this tragic state in the research program, especially in light of the real-dollar cut-back in VA research money during the last 2 fiscal years and the one proposed for the next fiscal year, the committee adopted my amendment to mandate the payment of special pay to clinical researchers who are otherwise eligible for it under Public Law 94–123.

These two positive actions, with regard to the VA research program, if adopted by Congress, should help remove the cloud of demoralization and retreat now impending over VA medical research efforts.

Once again, Mr. President, let me express my deep appreciation to the chairman of the Appropriations Subcommittee and to the ranking minority member of that subcommittee, who have demonstrated time after time their concern for the health and welfare of the Nation's veterans. While I am not in total agreement with the subcommittee's recommendations on appropriations for the VA hospital and medical program for fiscal year 1977, I believe that the subcommittee has listened to us with an open mind and that it made its decisions after careful deliberation. Again, I thank the Senators for their time and courtesy.

Mr. President, this amendment does not add any money to the amount included in the bill. It merely would shift around a very small amount from one item to another within the VA hospital and medical appropriation, specifically moving $4.2 million to medical and prosthetic research from the medical care item.

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

Mr. PROXMIRE. Will the Senator from California yield?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. It is my understanding that this amendment does not increase the funds in the bill at all. It simply transfers funds.

As I understand it, the Senator from California is chairman of the Health and Hospitals Subcommittee of the Veterans' Committee, is that right?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. Is it his judgment that this transfer would be in the best interest of veterans?

Mr. CRANSTON. Very much so.

Mr. PROXMIRE. Mr. President, I have

no objection. I am happy to accept the amendment.

Mr. MATHIAS. I have no objection.

The PRESIDING OFFICER. Is all time yielded back?

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I thank the Senators very much for their cooperation.

UP AMENDMENT NO. 116

Mr. DURKIN. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself and Mr. MCINTYRE, proposes an unprinted amendment numbered 116: On page 24, line 22, strike out "$4,873,000,000" and insert "$5,673,000,000."

Mr. DURKIN. Mr. President, what I am proposing is to add $800 million in additional funds to be used for veterans adjusted benefits under the GI bill.

The purpose of this amendment is to provide funds for additional benefits under the GI bill to two groups of veterans.

First, it would provide sufficient funds to allow almost 400,000 veterans to continue their education.

As everyone knows, while many in this body were around Memorial Day, giving patriotic speeches in their States, the GI bill benefits expired for 400,000 veterans in schools across the country, including 25,000 or 26,000 veterans in the State of New Hampshire.

In the second group, it would provide funds to end, once and for all, the arbitrary 10-year limit on education for veterans who have not yet reached their 10-year deadline.

For some time I have tried, along with others, to get the proper Senate committees to address this problem. Senator MCINTYRE and I, with a number of cosponsors, have introduced S. 3222. That bill sort of disappeared into the carpet and has not been heard from. In fact, there have not been hearings on it and there are no hearings in sight.

We are sort of in a Catch-22 situation.

This $800 million does not bust the budget. If we do not move now, when we move to bring S. 3222 to the Senate as an amendment to another bill, I understand that then it will be subject to a point of order.

I do not want to consume an undue length of time. I would urge that a point of order not be made on this amendment. We have had a wholesale abandonment of the rules of procedure today and this week, and it looks like we will next week.

I am reminded of a barroom poker game. The fellows are playing poker and a man has four kings. He thinks he has a pretty good hand. He bets the farm, the cattle, and all but his wife and children, but he loses because the man sitting across from him has an ace, 3, 5, 7, 9. The ace, 3, 5, 7, 9 is an old cat, and the guy who holds it points to the sign and says "Well, old cat beats anything." But a couple of hours later in the game, the farmer has an old cat himself. He bets everything he can get his hands on. The same opponent then turns over a pair of deuces and says, "I win." He points to another sign saying "Old cat only wins once a night."

So I would urge that there be no point of order. There was no point of order when many of these veterans were sent off to bleed and die in Southeast Asia. I do not think there should be any point of order made today. If there is, I would urge that the Members reject the point of order.

I think it is time we stood up and were counted on this issue. I hope we do not see a disturbing trend wherein the various rules are used by the administration, by the White House, by the Senate, or by the House, to avoid standing up on this issue. I believe we either ought to tell the veterans that their benefits have expired and we are not going to do anything about it, or take the opportunity today to do something about it. I am urging the second course.

Mr. PROXMIRE. Mr. President, there is no one in the Senate who does not recognize the fact that the GI education effort has been an excellent program. In fact, most of us have taken advantage of the program. It has contributed not only to those who have benefited from the additional education, but it has certainly strengthened our country by providing for a better trained, better educated people. It is a marvelous program.

Mr. President, there are a number of very, very serious problems with this amendment. I do hope that the Senator from New Hampshire will consider withdrawing the amendment and will consider working with our committee and, of course, the Veterans Committee, to try to see if we can accomplish his purpose in a little different way. Let me explain why.

In the first place, there is very strong opposition to authorizing an extension of the benefit period. An extension is opposed by the VFW, the American Legion, the DAV, and the House Veterans' Affairs Committee. It has been opposed by a lot of people who have the same interest in the veteran the Senator from New Hampshire and other Senators have.

In the second place, it adds money to the bill, but we are informed emphatically by staff, that there is no way that money can be spent. I say this because unless the law authorizes the extension of the benefit period for more than the present 10 years, the money cannot be paid out to veterans over a greater period despite the fact that the amendment adds $800 million to the bill for that purpose.

If the money could be paid to veterans we would not be able to pay other compensation that veterans may become entitled to through changes in authorizing legislation without violating a budget resolution ceiling.

For these reasons, I do hope the Senator from New Hampshire will consider working with the Veterans Committee and the Appropriations Committee to see if we can extend the benefit period as soon as possible. I believe he has made a very strong case. As I say, we all would like to do all we can to strengthen this program, but I do hope we can work it out another way.

Mr. DURKIN. Let me state for the record we sent around a Dear Colleague letter on S. 3222, trying to generate support for the hearings. The only thing we did was end up with an irate staff member from the Veterans Committee coming down and threatening one of my staff people with a verbal punch in the nose if we did not play ball. It does not make much impression on me, and I hope it does not make much impression on the Senate, that the older veterans groups do not want this bill. I am not impressed by the fact that the VFW and the DAV do not want it. They are interested, and properly so, in the older veterans. I think we have taken care of the older veterans. These are the younger veterans I am referring to.

I know everyone would like to forget Vietnam, but I do not think we ought to forget the casualties from Vietnam. We take care of them if they were shot up; we take care of them if they need a burial plot, as we should. But if they want to educate themselves, we are going to cut short the benefits.

The Senator knows as well as I do that for every dollar we expend on this program, we get at least $4 back. It is one of the most successful programs, social programs, if the Senator wants to call it that, we have ever had. Also, with the Nixon-Ford economic situation, there are a lot of veterans who are going back and picking up their educational benefits because they do not have a job or they do not work a full week.

We are cutting those people off.

I am going to persist. I am a member of the Veterans' Affairs Committee. We cannot even get a hearing on the bill. If we do not move in this fashion, we will be caught in the Senate Budget rules later on.

As I said, those boys did not try to hide behind any rules when the draft boards called for them. They went off to answer the call for military service.

I think the Senate should stand up and be counted. I think the Senate should display the same intestinal fortitude that we demanded and expected of those people we sent to Southeast Asia.

Mr. MATHIAS. Mr. President, I would like to salute the distinguished Senator for his interest in this problem. It is a problem. It is a very serious problem for the men and women who served in our Armed Forces, who do have difficulties in readjusting to civil life, who do need help. It is a problem in which I have been deeply involved. I welcome the Senator's interest, his concern and his desire to do something about it. I think it is a very useful addition to this debate.

I do have some serious questions which reflect those of the chairman of the subcommittee. For instance, I have been fighting for a long time to get a fair shake for the Vietnam veteran, a compensation which would be the equivalent of

what I received at the end of World War II as a student under the GI bill. The Vietnam veteran in comparable dollar terms is simply getting shortchanged.

I would raise with the Senator whether extending the benefits over a wider period of time when we are not able to get the level up to where it ought to be in the period where we are covered is in the best interest of the whole veteran population of the country.

Then I would raise with the Senator another question, which is something more than a philosophical question. I believe all of us are sincerely interested in the whole range of benefits that are provided to the veterans who have fought our wars. These are educational benefits and there are benefits of other kinds. If every one of them has to be diluted because of the adoption of this particular amendment, I think we have to question whether we have really done justice.

While I can enthusiastically support the principle which the Senator adopts, which is embodied in his amendment, unfortunately it has some mechanical problems which present themselves. I will pledge myself to work with the Senator, or with any other Member of the Senate, to try to extend benefits, to improve benefits, to make them, as I say, comparable to what I received in terms of 1976 dollars.

But I do not see how the Senate can really help the American veteran by adopting this amendment today. It could seriously jeopardize some of the benefits which are already locked into the law.

Mr. DURKIN. Mr. President, in response to the observations of the Senator from Maryland, I would have to point out that it is my understanding that the Senate Veterans' Committee will be considering an increase in those levels in the next few weeks.

Mr. MATHIAS. Unfortunately they have considered that in the past, and have not been able to achieve it. I hope the Senator will join with us in trying to get that level up.

Mr. DURKIN. As I understand, the money has been provided in the budget resolution to take that into consideration.

Maybe I can strike a deal with the Senator from Maryland. I intend to pursue, and I think others on the committee intend to pursue, the matter to get adequate compensation legislation for our veterans from World War I on. If the Senator will join me in starting somewhere by supporting this amendment, I pledge my support to work to get adequate levels in subsequent measures.

Again, I think we all know it has been an extremely successful program. There may have been some abuses, but it has not been the history of this body to scrap a program merely because there have been a few abuses. We work to try to clean up the abuses.

We have adopted in my State, as many Senators know, a toll-free hotline, so people can call into my office toll free from anywhere within the State.

Electric utility rates and the suspension of the GI bill benefits are by far the two major areas with respect to which we are receiving calls—from real people who have real problems. They do not understand the Senate rules, and they do not understand Senate procedure. The only thing they know is they cannot pay the mortgage and cannot pay for books with promises. They know their education has been at best interrupted, and may be terminated, and I do not think we want to go on record as supporting the termination of education.

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

Mr. PROXMIRE. Mr. President, will the Senator yield before he makes that request?

Mr. DURKIN. I yield for a question.

Mr. PROXMIRE. Mr. President, would the Senator really expect that $800 million to be expended, when there is no authorization, and a provision in the law saying 10 years is the limit?

Mr. DURKIN. That is the budget estimate. I tried to come in with a fair figure. The Budget Committee personnel have been very fair——

Mr. PROXMIRE. No, I am not talking about the amount. I have a different question. In view of the fact that the law limits the duration of time over which benefits can be paid for GI bill purposes to 10 years, does the Senator argue that if we appropriate this money. it can be expended in order to give a veteran educational benefits for an 11th and 12th year although the law does not permit it?

Mr. DURKIN. No; but we are working on eliminating the terminating date to allow expenditure of these funds.

Mr. PROXMIRE. If the Senator is arguing that the appropriation of these funds can overrule existing law, his amendment is subject to a point of order.

Mr. DURKIN. I am not arguing that. I will defer to the Senator from Wisconsin, who may have a better understanding of the rules than I do, and I am not sure what trap I am being asked to waltz into——

Mr. PROXMIRE. I am merely saying the law provides for a 10-year limit. The purpose of the Senator's amendment is to provide $800 million so that veterans who left the service more than 10 years ago can continue to take advantage of the GI bill.

All I am saying is that the law does not permit that, and if the Senator is saying that this appropriation will overrule the law, then I think I can make a point of order. Otherwise I could not. But if I cannot make a point of order, then the Senator is arguing for $800 million to no purpose. At least the funds cannot be used for the purpose for which he intends them.

Mr. DURKIN. I am not arguing that this amendment is going to overrule the law, but I am arguing that it will allow the money to be there and be available.

The situation the Senator suggests, even if it came to pass, I do not think the money would be lost. Even if we were thrown into some procedural problem later on down the road, the money is not going to be lost. So I think we can take up that problem when the particular problem presents itself.

As I see the amendment, we are back in that barroom in a poker game, with different signs, "An old cat only wins once a night." I do not want to get caught, nor do the veterans whose pensions have been terminated.

Mr. PROXMIRE. If the Senator can get the law changed to 12 years, we will certainly, without any question, provide the funds. We provide the full amount for veterans benefits to which veterans are entitled. We provide all necessary appropriations, and will continue to do so.

But until we change the authorizing legislation, it seems to me it is a vain act on our part, and it would be inappropriate, to provide the $800 million.

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

Mr. PROXMIRE. I yield to the Senator from Utah.

Mr. DURKIN. Mr. President, I think I have the floor. I yield to the Senator from Utah for a question.

Mr. MOSS. I wanted to ask the Senator from New Hampshire this question: The procedure, of course, is to change the law and then determine if veterans are entitled to some additional entitlement. If that happens, automatically there has to be a supplemental appropriation, because, as the Senator from Wisconsin was pointing out, when there is a requirement, then we provide the funds. We exercise no judgment here as to whether to withhold them or not; the funds are provided. It is one of those locked-in expenditures.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired. The Senator from Wisconsin has 13 minutes remaining.

Mr. PROXMIRE. Mr. President, I yield the Senator such time as he may require.

Mr. MOSS. May I ask the Senator from Wisconsin if the way I have stated it is not correct? If the entitlement period is changed by law so that a veteran is entitled to 12 or 13 years, then the appropriation is automatically provided; is that not true?

Mr. PROXMIRE. The Senator is correct.

Mr. DURKIN. 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. HANSEN. Mr. President, will the Senator from Wisconsin yield me some time? Does he have time?

Mr. PROXMIRE. Yes. Mr. President, I intend to move to table the amendment whenever the time comes, but I certainly do not want to cut off debate. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I am the ranking Republican member on the Veterans' Affairs Committee, and I should report to Senators that the major veterans organizations, the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans, are all opposed to this amendment.

The reason is that priorities were set in order to keep within the budget constraints we have been asked to observe. All the major groups have set the priority of cost of living increases for compensation and pension on a higher priority

level than extending the delimiting date. tending the delimiting period, the $800 And since no authorization exists for ex- million would mean virtually no cost of living increases for pension and compensation. I would hope very much that it is not adopted.

I am just as much interested as anyone else in giving every reasonable opportunity we can to veterans in this country to further their education. I think the experience we had following World War II proved the value of that kind of program.

But there has been reasonable opportunity already given, and I am greatly disturbed over the shifting of funds that would result if this sort of program were funded, as I understand it, and it seems to me that we would be doing a very grave injustice to persons who deserve increased help in meeting the cost-of-living expenses and other benefits that are written into the law now.

So I simply urge our colleagues to vote against the adoption of this amendment.

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

Mr. SPARKMAN. Mr. President, will the Senator yield briefly?

Mr. PROXMIRE. I yield.

Mr. SPARKMAN. I am thoroughly in sympathy with the object that he is trying to achieve but, as I understand it, if he did more than put the figure in, it would be subject to a point of order.

Mr. PROXMIRE. That is right.

Mr. SPARKMAN. This has to go to the House of Representatives. I am wondering if, as it is, it is subject to a point of order in the House of Representatives?

Mr. PROXMIRE. I understand it could well be. We do not have advice on this point, of course, from the House Parliamentarian. I understand it could well be.

Mr. SPARKMAN. The Senator knows we often run into those things.

Mr. PROXMIRE. We certainly do. More often than not.

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

Mr. PROXMIRE. I yield to the Senator from Maine.

Mr. MUSKIE. The Budget Committee, of course, is not a line item committee. This is a line item. But I think we have to put it in context of the overall budgetary limits and pressures.

In the first place, if the budget process is to work we must proceed and we must follow the procedures which enable us to take issues in their proper sequence. Otherwise, the budget process would be wholly without control.

We had some discussion earlier today on the Interior appropriations bill on this point. This amendment would add $800 million to this bill. It would do so, as I understand it without the authorizing legislation which is necessary if it is to be implemented.

Earlier, this morning, on this HUD bill, I pointed out that we anticipate a number of supplementals for VA benefit increases. These increases, which could total as much as $2.2 billion, would provide added benefits to pensioners, the disabled, students, and patients in VA hospitals. These possible increases are for bills the Committee on Veterans' Affairs intends to consider or has considered.

If we approve this amendment now to fund something the Veterans' Committee is yet to authorize, we will be putting this initiative for veterans against the initiatives we expect from the authorizing committee. There are not enough funds to cover all of the possibilities, as I indicated in my previous statement on the pending legislation.

The budget process leaves it up to the authorizing committees to decide on how the budget authority allocated to them should be divided up among the programs under their jurisdiction. In this case, the Committee on Veterans' Affairs should choose which of the programs they legislate should get the funds that are available for entitlement programs.

If we do not do it that way, what may happen is that high priority programs which have had the support of Congress for years and which today still have a claim upon the compassion of Congress may be squeezed out as we get to the ceilings on the allocations which have been provided. We ought not to take that risk. We ought not to take that risk until we get to the point with the advice of the Veterans Committee of making our priority choices. If at that point, Senators would prefer this over some of the other programs that might otherwise be squeezed out, benefits for pensioners, disabled, students, and patients in VA hospitals, then Senators can make that choice. But they should not be asked to make that choice now before they have had an opportunity to consider the recommendations in those areas of the Veterans Committee against this one against the amount of money, and we are talking about a possible $2.2 billion overall, that may be available. I just think this is out of order not in terms of a point of order. I am not going to raise a point of order. I do not know whether it is applicable. It may well be. I am simply making the point that in terms of the budget process the whole intention of that process is to enable Senators to choose their priorities when they have all the facts before them and all the claims on priorities before them. If we do not do it that way, then Senators can come to the Chamber one by one pushing an attractive program for, first, consideration, Senators will act on it because it is attractive, and then when we come to the ceiling we find high priority programs squeezed out inadvertently without the intention of any Senator to do so.

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

Mr. MUSKIE. Of course, I yield.

Mr. DURKIN. If we wait, then when we come back at the end, the statement may very well be that this exceeds the budget. Then instead of the Senator from Maine being the budget buster, it would be the Senator from neighboring New Hampshire the budget buster. That is the catch-22 situation.

Mr. MUSKIE. May I respond to that?

Mr. DURKIN. Sure.

Mr. MUSKIE. The argument the Senator has just made is an argument against the budget process because the budget process requires us to wait, it requires us to make a beginning in the spring, then it requires us to make our spending decisions in terms of priorities. I mean if we all act in accordance with our individual intention—let me make a parallel comparison. I have a very strong commitment to the waste treatment program, and the budget resolution includes $5 billion for the continuation of that program because 22 States are running out. This bill where that $5 billion ought to be included does not include it. I did not offer an amendment to include it. Why? Because the authorization legislation has not yet been approved, and Senator PROXMIRE and his committee properly in my judgment said to me:

> Senator, you ought to take your place in line. When the authorizing legislation comes then we will consider appropriations to implement it.

I have exercised that restraint in a field where I had a high priority for 15 years. So I was strongly tempted to do this, and there may be those criticizing me for not doing it.

Mr. DURKIN. Will the Senator yield for one other question?

Mr. MUSKIE. Yes.

Mr. DURKIN. I will admit that I am not that familiar with all the rules. But what do I tell the veterans that are contacting me? Can the Senator give me one paragraph to tell them? Is it the Veterans' Committee; is it the Budget Committee? Who is going to surface, stand up, and tell those people that there are no benefits for them, to stop calling? I do not think the Budget Committee was to be a shield.

Mr. MUSKIE. It is not a shield. It is a shield for the taxpayer.

But when I first came to the Senate, there was no Veterans' Committee, and for years veterans organizations pressured us to create a Veterans' Committee on the Senate side to act as their voice. There was resistance to that from some quarters in the Senate. But finally, the Senate created a Veterans' Committee within the last 5 years.

What the Budget Committee did in the spring is to provide, I think, close to $2.5 billion in the President's budget for veterans. When we considered that resolution, we had provided almost $1.5 billion more than the House of Representatives. The House ultimately came up. So we provided the same amount. We provided more money in dollars than we did last year. The Budget Committee does not divided up that money. The Veterans Committee then takes over, and we created the Veterans Committee for that purpose. The Veterans Committee has not yet acted upon all these programs which can total as much as $2.2 billion. I repeat, which would provide added benefits to pensioners, disabled students, and patients in VA hospitals.

Until we get the whote picture presented to us, how are we to decide whether there is being an equitable distribution of the money provided in the first concurrent resolution? I do not

want to vote against the Senator's proposal. But I do not see how I can vote for it until I get all of the facts. So, a vote today conceivably could prejudice his objective because of the other considerations; whereas, proceeding through the process in an orderly fashion could well advance the Senator's objectives. I do not know. I am not a member of the Veterans Committee. I do not need any more committees, I say to the Senator. I am not sure that I want all I have at this point.

In any event, that is the situation as I see it, as was the case with the Senator from Wisconsin and the Senator from Maryland.

I believe in the GI bill of rights. I did not take full advantage of it. Unless the law is changed, the money that the Senator is advocating cannot be spent; and he is risking, it seems to me, a vote, from his own point of view, at a premature time. I do not like to say this. We all like to vote "yes" on programs of this kind.

Mr. DURKIN. Does the Senator from Maine have any suggestions so far as the proper time is concerned?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. PROXMIRE. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota, (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Iowa (Mr. CULVER), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that if present and voting, the Senator from Ohio (Mr. TAFT), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 43, nays 18, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—43

Bartlett	Hansen	Nelson
Beall	Hart, Philip A.	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hathaway	Pearson
Biden	Helms	Proxmire
Bumpers	Hollings	Randolph
Byrd, Harry F., Jr.	Huddleston	Roth
Church	Javits	Scott, Hugh
Cranston	Magnuson	Scott, William L.
Dole	Mansfield	Sparkman
Eastland	Mathias	Stevens
Fannin	McGee	Stevenson
Fong	McGovern	Thurmond
Glenn	Moss	Young
	Muskie	

NAYS—18

Abourezk	Ford	Morgan
Allen	Gravel	Pastore
Byrd, Robert C.	Jackson	Pell
Cannon	Kennedy	Ribicoff
Clark	McIntyre	Schweiker
Durkin	Metcalf	Stone

NOT VOTING—39

Baker	Goldwater	McClure
Bayh	Griffin	Mondale
Brock	Hart, Gary	Montoya
Brooke	Hartke	Percy
Buckley	Hatfield	Stafford
Burdick	Hruska	Stennis
Case	Humphrey	Symington
Chiles	Inouye	Taft
Culver	Johnston	Talmadge
Curtis	Laxalt	Tower
Domenici	Leahy	Tunney
Eagleton	Long	Weicker
Garn	McClellan	Williams

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 117

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER (Mr. HASKELL). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes unprinted amendment numbered 117:

NEW COMMUNITIES

For necessary expenses under section 502 (a) of the Housing Act of 1948 (12 U.S.C. 1701(c), $4,300,000.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to the Senator from Alabama (Mr. SPARKMAN) for the purpose of presenting an amendment and, as soon as he has completed with his amendment or amendments, I may regain the floor.

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

Without objection, the amendment by Mr. SPARKMAN will be in order.

UP AMENDMENT NO. 118

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 118: On page 5, line 19, strike all after "$2,975,000,000", through line 24.

Mr. SPARKMAN. Mr. President, this amendment would delete the provision of the committee bill authorizing excess rental charges credited to HUD under section 236(g) of the National Housing Act to be available for use in other programs.

Mr. President, I believe this provision should be deleted for the following reasons:

First, the Housing Act of 1974 specifically authorized that section 236 funds returned to HUD as excess charges should be used to assist section 236 projects which face financial difficulties, because of increased taxes and utility costs. HUD has failed to carry out this provision despite the specific legislative authority conferred 2 years ago, despite the fact that almost $25 million in excess charges have been returned to HUD, and despite the fact that many projects face financial difficulties and a number have sought remedy under the 1974 provision.

Second, the General Accounting Office has informed HUD that the accumulated section 236 funds are covered by the Impoundment Control Act, and that, in the absence of a recision approval by the Congress, these funds must be obligated in accordance with the provisions of the 1974 act. HUD has failed to obligate the funds. I am informed that the GAO is now considering legal action in order to require HUD to follow the requirements of the Impoundment Control Act.

Several courts have already stated, in cases brought by owners of troubled projects that HUD is required to utilize the returned funds. There are at the present time several judgments against HUD in cases involving more than 20 projects. HUD, however, persists in litigating rather than in obligating the funds authorized under section 236(g).

Finally, I believe that the provision under discussion is more properly a matter of legislative authorization under the jurisdiction of the Committee on Banking, Housing and Urban Affairs than an appropriations issue, since it would significantly change an authorized housing program.

In light of the principles and facts I have outlined I believe the manager of the bill should accept this amendment.

I express the hope that the chairman will accept this amendment and, at least, take it to conference where it can be worked out.

Mr. PROXMIRE. May I say to the distinguished Senator from Alabama who, incidentally, is the chairman of the Housing Subcommittee and who was chairman of the Banking Committee, of course, for many years, that I am happy to accept the amendment. I think it is a very good amendment. It is most important that we do our very best to keep the section 236 tax and utility subsidy program going. It is a good program. It is for low-income people.

All we are asking, as I understand it, is that this money be kept in the program and not distributed elsewhere.

Mr. SPARKMAN. That is what we have provided in the law.

Mr. PROXMIRE. It certainly is. So I am happy to support the amendment of the Senator from Alabama.

Mr. SPARKMAN. I thank the Senator from Wisconsin and I thank the Senator from Maryland.

Mr. MATHIAS. The Senator is exactly right. I am happy to join with the Senator from Alabama and the Senator from Wisconsin.

Mr. SPARKMAN. I thank the Senator from New York for yielding.

The PRESIDING OFFICER. Do the Senators yield back their time?

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

Mr. SPARKMAN. I yield back my time.

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

The amendment was agreed to.

UP AMENDMENT NO. 117

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the amendment which I proposed would add some $4 million to the general authority of the Secretary of HUD to deal with the problems of the programs under the Secretary's authority because we find no other place in the bill where it can be put without it being subject to a point of order, and it can be put in here as the appropriation authority is open. I do it for the purpose of raising this particular question which involves a very serious emergency in my own State.

It involves the problems of a community call the Gananda new community, and arises under the New Communities Act which we have passed and which is being administered in respect to 13 new communities, of which 7 are having very serious problems. There are two in Minnesota, Cedar Riverside, and Jonathan; there is one in Illinois, Park Forest South; one in Ohio, New Fields, and one in Texas, Flower Mound, and two in New York, Gananda, which is the one immediately at issue, and Riverton, both of which are having problems. That is out of 13 new communities in the country established under this new law.

Now, the reason for the new law was the desire, in a demographic sense, to reduce the impact of heavy populations on our central and older cities, and in order to develop new centers, new city centers, in different parts of the country as a highly desirable policy for the United States.

Mr. President, it is a highly desirable policy, without any question.

The local citizens and the local communities were invited to cooperate with the Federal Government in respect of these new communities, and in many cases these local units of government were very small. Take in the case of this situation, which is in a serious emergency right now, are two local towns, Walworth and Macedon, that got together in order to proceed in this new communities direction. As of the situation right now these towns, which can hardly afford this kind of loss, are faced with roughly $4 million, which amounts to local creditors' claims, local property taxes and assessments, and essential local government services which they have been furnishing to the new community there.

The investment on the part of these communities has been for them, considering their size, very large. The United States, in respect to Gananda, has guaranteed $22 million principal amount of obligations issued by the development corporation there. To put the matter in focus, Gananda is 12 miles east of Rochester, N.Y. That just gives a physical picture of the situation.

In essence, Mr. President, the United States undertook a moral obligation to these small communities, not a legal obligation, in the purposes which are stated for the New Communities Act. I will not trouble the Senate, as I know we are all anxious to terminate this debate as quickly as possible, by reading it into the RECORD, but I ask unanimous consent that subsection (f) of section 710 of the New Communities Act may be made a part of my remarks and printed in the RECORD at this point.

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

SUBSECTION (f)

(f) It is, therefore, the purpose of this part to provide private developers and State and local public bodies and agencies (including regional or metropolitan public bodies and agencies) with financial and other assistance necessary for encouraging the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner which will rely to the maximum extent on private enterprise; strengthen the capacity of State and local governments to deal with local problems; preserve and enhance both the natural and urban environment; increase for all persons, particularly members of minority groups, the available choices of locations for living and working, thereby providing a more just economic and social environment; encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities; assist in the efficient production of a steady supply of residential, commercial, and industrial building sites at reasonable cost; increase the capability of all segments of the homebuilding industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth; help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation; and encourage desirable innovation in meeting domestic problems whether physical, economic, or social. It is also the purpose of this part to improve the organizational capacity of the Federal Government to carry out programs of assistance for the development of new communities and the revitalization of the Nation's urban areas.

Mr. JAVITS. In essence, Mr. President, it invites the cooperation of local communities to work out new communities, exactly what has been done in this case, and proposes that the local citizens be in partnership with the Federal Government to carry out these programs and, thereby, it ends by saying "and the revitalization of the Nation's urban areas."

Now, Mr. President, notwithstanding everything that this local community has been able to do—and I do not think there is any challenge to the fact that it has really done its utmost—the property is within immediate danger of being foreclosed upon and taken over, with whatever that may mean to the United States in terms of its own guarantee as well as to the local community. A local school, which has been established on the property, called the Gananda Central School District, will have to be foreclosed as a result, and the dislocation will be very, very great.

The reason why this is not a precedent respecting the other properties which are in trouble is that this is an emergency which, unless dealt with immediately, Mr. President, there will be nothing to deal with. The ball game will be over.

The money which we seek will be optional money on the part of the Secretary of HUD and will not necessarily have to be spent at all, but at least there will be available the amount which is required in order to save this particular community in the discretion of the Secretary.

Mr. President, one would ask why is not $4 million available in such a huge agency as the HUD, and why do we need a special provision like this? I can assure my colleagues that I am too experienced to seek $4 million in a huge bill like this unless it were absolutely essential.

This is what makes it essential: Under this very same statute; that is, the new communities statute, the Secretary has a revolving fund of a couple of hundred million dollars plus, a very substantial revolving fund. But for a reason which I cannot understand, the counsel to HUD has advised the Secretary that there is legal uncertainty whether the revolving fund is available for the purpose.

I would like to read the provisions, because I think they are essential to our discussion. Section 717(a) of the New Communities Act says:

The Secretary is authorized to establish a revolving fund to provide for (1) the timely payment of any liabilities incurred as a result of guarantees or grants under section 713—

That is the operative section—

(2) making loans authorized under this part; (3) payment of obligations issued to the Secretary of the Treasury under subsection (b) of this section; and (4)—

And this I beg the Senate to note—

any other program expenditures, including administrative and nonadministrative expenses.

(At this point, Mr. HASKELL assumed the Chair.)

I gather the legal uncertainty of the general counsel is based upon the general purpose and thrust of the other provisions of this particular statute. But it seems to me, according to the doctrine of interpretation endorsed by courts generally, that where the statute is specific, that replaces the policy, the theory, the thrust, or anything else; where it specifically says, as it does in this case, "and any other program expenditures including administrative and nonadministrative expenses."

But in the absence, with this legal problem staring us in the face, we are absolutely frustrated and this may go down the drain.

So I have asked the manager of the bill—and then I shall be through—because of an emergency situation which may involve very serious loss to the United States and will involve very serious damage to two small communities, will he take this amendment to conference?

If the legal problem of the department is cleared up—and I hope and pray it will be, and they are having, I gather, a big meeting next Monday—then we are out of the woods.

If the legal problem is not solved and the Secretary informs the conferees she does not intend to use any of this money, again, they will drop it in conference, but if the Secretary should advise the conferees she does think she has to do something about this, then at least there will be money available to do it.

We have to put it, as I say, under a section of law which has such sums as appropriation authority, because I feel, and I agree with Senator PROXMIRE, if it were subject to a point of order, the point of order would have to be made. That is his duty.

I hope by earmarking it this way and putting it under a section where it is permissible, and bearing in mind the express reasons I have given, the manager might consider taking it to conference solely for the purpose I have described.

Mr. PROXMIRE. May I say to the Senator from New York, that he, of course, as always, has made a devastating case here today. As a distinguished lawyer and a former attorney general of his State, I think he speaks with great authority.

I cannot understand, as he cannot understand, why HUD cannot make payments out of their revolving fund.

The Senator has read the language. It is explicit. It is clear. It seems to me that they should make those payments out of the revolving fund.

It is very difficult for me even to take this to conference and the Senator knows why.

For one thing, we did not know about this proposal until about 24 hours ago. Furthermore, there is no authorization. In addition, there have been no hearings. Finally, there is no budget request.

I am, of course, very concerned at the precedent that is involved in accepting an amendment of this kind without a budget request and without any authorization.

So I hope that the Senator will not press his amendment and will permit me, on the basis of this colloquy we are making on the floor, in the strongest way I know how, as manager of the bill, to indicate to HUD that it is clear in the language the Senator has read that they have authority to make the payment and that they should not feel there is any legal restraint on them.

Mr. JAVITS. Mr. President, on my time or the Senator's time, however the Senator wishes it, I referred to the fact that this amendment is directed to section 502(a) of the Housing Act of 1948, which gives the general authority to the Secretary of Housing and Urban Development to use such sums as may be necessary to carry out functions——

Mr. PROXMIRE. I misunderstood what the Senator is doing. Does he have any money in his amendment?

Mr. JAVITS. There is money in my amendment, but it is offered to implement the authority for such sums as the Secretary may need to carry out his functions, powers, and duties under section 502(a) of the Housing Act of 1948.

So that, technically, it can get by the point of order stage. That is the only reason I did it this way and I could legitimately raise the issue involved here.

In other words, I agree, I am using the technical way in which to get by the issue of the point of order.

But the purpose of the $4 million, if ever authorized in law, would be for the purpose we are discussing.

May I say to the Senator that as to precedent, obviously, where property is in the trouble that this is in, where we invest, this is the only thing we can do.

We are advised both by HUD itself and by the local community that they could, within a matter of days or a week or so, be out of business.

That is the only reason I have asked and been so explicit about the conferees.

I may say another thing, it is possible, notwithstanding Senator PROXMIRE's legal opinion and mine, that the Comptroller General may find differently after review.

I have not made the legal analysis. Although the language seems to me to be very clear, I have not made the legal analysis which is made in this particular statute.

For all I know, in a legal opinion, in some detail, the Comptroller General might very well disagree, in which case we would be out of business. That is the only plea I can make; the Senator knows it as well as I do.

Mr. MATHIAS. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MATHIAS. The Senator has remarkable ability, as this Senator has observed many times in the past, to very concisely and exactly state a problem, and I think that is what he has done here today.

The problem is a real one, and it is one that not only threatens the community which is now in the gunsight, but of course it can create problems in other communities later.

But the Senator is asking us to take this amendment to conference, in essence, because of an emergency which faces us.

Mr. JAVITS. That is correct.

Mr. MATHIAS. I think it might be useful, so we avoid the precedents all of us are concerned about, if he could further highlight just how this situation arose in the last 24 hours which creates the emergency.

Mr. JAVITS. The reason it arose is the pressure of creditors. Creditors' claims here are $1,600,000, and the pressure of creditors imposed by suits will force HUD to foreclose. That will shut out the creditors probably, and shut out the local people and very seriously jeopardize HUD's own guarantee which is based upon the fact that, to whatever extent this can be operative, probably a more limited extent than the original program, that at least they can redeem the amount of their guarantee and perhaps do something as far as creditors are concerned, too.

In short, it is a conservation proposition at this stage.

Mr. MATHIAS. And HUD has a substantial investment in jeopardy in this instance.

Mr. JAVITS. Exactly, as a guarantee matter, in a completely new field, for a new community we wish to encourage under this New Communities Act.

Mr. MATHIAS. If we can keep the situation from totally collapsing in the next few days while the traditional conservation methods can be applied, then HUD's exposure to loss which, after all, is loss for the taxpayers, can be reduced.

Mr. JAVITS. Materially reduced.

In addition, frankly, if the chairman felt that the amount which I have named is too high, I will reduce it.

I think the chairman and the ranking member know I would not expect to prevail in an amendment of this kind. I proposed it as a matter of absolute equity and honesty and I stated very frankly the reason and the protection which it will give if at least it is before the conferees.

Mr. MATHIAS. I must say, it is a troubling situation, but the Senator is painting a picture which is rather specific and does not give rise to creation of precedents.

Mr. JAVITS. Exactly.

Mr. MATHIAS. Which are likely to occur in exactly this way again.

Mr. JAVITS. Exactly correct.

Mr. PROXMIRE. May I say to the Senator from New York that I still have a problem with his amendment. The Senator, of course, is about as skilled at handling these things as anybody in the Senate—perhaps more so.

The fact is, however, that the rules, I think, are logically and properly constructed to prevent us from appropriating money that is not authorized, or has not been asked for in a budget request. It seems to me that if the Senator had proceeded as I expected him to initially, a point of order would be sustained on those grounds, as the Senator has agreed. Now he is using a technicality to get around that point of order. It makes it very difficult for me to accept his position. It is not because there is anything wrong in what the Senator has done, but there is logic to the rules that bar an amendment that is not authorized or for which there is no budget request.

Mr. JAVITS. Mr. President, I modify my amendment by removing the headnote.

The PRESIDING OFFICER. The amendment is so modified.

Mr. JAVITS. Mr. President, may I answer that as follows: If the amendment is all right in terms of the point of order, and I believe it is, then we are down to the fact that it is a question of equity, completely within the control, indeed, of the chairman and the ranking minority member themselves in the conference. It is not in the House bill. I am sure the House will accept a rescission the minute anybody opens his mouth about it. I wish to leave it that way. I have no desire to gain any advantage. I just do not want the Secretary deprived of the authority to save these local communities from a disaster. It is nothing else.

As it is in complete control of the Senator, as the purpose has been clearly stated on the record, as it is not subject to a point of order, in my judgment, it seems to me that we can take, without establishing a precedent, this precaution. That is all it is. It is a precaution which I ask the Senator to take. I will tell him right now, as he knows, there is nothing I can do about it if he dropped it, even if we were right. I am just hoping that the Senator will give these communities a chance by taking this precaution of including it in the bill. Otherwise, we are really out of business.

Mr. PROXMIRE. We have no letter from HUD. Does the Senator have assurances from the HUD that they accept this approach?

Mr. JAVITS. They accept this technique.

Mr. PROXMIRE. Do they support this particular amendment?

Mr. JAVITS. They support the technique which we are using of making this money available if it needs to be available and the conferees will decide that.

Mr. MATHIAS. If the Senator will yield, I can say that I heard from HUD this morning that they are concerned about the problem and that this is a technique——

Mr. JAVITS. That is all. It is simply a methodology.

Mr. MATHIAS. It is to keep the thing floating over the weekend.

Mr. PROXMIRE. I have no trouble over the methodology, but I have trouble over providing $4.3 million, which is what the amendment would do, on the basis of explanatory materials from HUD on 24 hours' notice, which does not give us time to explore the equities of the situation.

Mr. JAVITS. That is all the time we have, too. If equity is against it, I am sure the Senator will drop it. All I want to do is to have something on the record to succor a situation that needs it. That is all I am pleading for. It is nothing else.

Mr. PROXMIRE. Mr. President, under the circumstances, given the full notice that this will get rather complete consideration in the conference, as the Senator accepts, I will be happy to accept the amendment.

Mr. JAVITS. I thank my colleague.

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

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

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, the Senator from Maine wanted to be recognized.

UP AMENDMENT NO. 119

Mr. HATHAWAY. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes unprinted amendment numbered 119.

The amendment is as follows:

On page 4, line 9, strike out "15" and insert in lieu thereof: "20".

Mr. HATHAWAY. Mr. President, I would like to make the following points in support of this amendment, which increases the amount for nonmetropolitan public housing from 15 to 20 percent.

In 1973, 27.4 percent of the total population was nonmetropolitan.

Thirty-three percent of housing units were outside the metropolitan areas.

In 1973, the Joint Center for Urban Studies of Harvard-MIT estimated that there were 13.1 million households suffering from "housing deprivation" and of these more than 5 million were nonmetropolitan, or 38 percent were nonmetropolitan.

In 1974, the ratio of substandard housing to public housing was 5 to 1 for urban counties, and 17 to 1 for rural counties.

The incidence of substandard housing in nonmetropolitan areas was 3½ times that in metropolitan areas in 1974.

As precedent, the Housing and Community Development Act of 1974 stipulates that 20 percent of community development block grants be to nonmetropolitan areas. The Senate had approved 25 percent, but the House had 20 percent, and that was the figure that came out of conference.

I would like to have the attention of the floor manager, if I may, in regard to this matter.

I realize that the 15 percent is a floor and not a ceiling. With his assurance that the 20 percent which I have set forth in my amendment would be a goal that we would hope to achieve—sometimes these floors tend to be ceilings when we express them in the law—I would simply like the colloquy to indicate that the Senate intends that the 15 percent be only a floor and that 20 percent be the goal of HUD in this regard to help alleviate the housing shortage in nonmetropolitan areas.

Mr. PROXMIRE. May I say to the Senator from Maine that I agree wholeheartedly with the excellent case he has made that rural public housing for low-income people has been neglected. There is no question that the proportion of people with modest incomes who live in rural areas is very high. They have not received their fair share.

I believe the record the Senator has made is very helpful in emphasizing our desire that HUD should provide a greater proportion of their public housing funds for this purpose. As the Senator has said, the 15 percent provided in the bill is not a ceiling; it is a floor. We hope HUD can do much better than that. Certainly, 20 percent is a modest objective. I would hope the Department can go at least that far. I will do all I can to encourage it.

Mr. HATHAWAY. I thank the Senator. With his assurance, with which I presume the ranking minority member concurs, I would be happy to withdraw my amendment.

Mr. MATHIAS. I certainly share with the Senator a great concern for rural housing. I strongly support the chairman in this.

Mr. HATHAWAY. I thank the Senator from Maryland and the Senator from Wisconsin.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HARRY F. BYRD, JR. Mr. President, the distinguished Senator from Wisconsin will recall the limiting language which was attached to the HUD appropriations bill for fiscal year 1976 dealing with increases in the published fair market rent bases for section 8 projects.

That proviso fixed the base level for section 8 fair market rent rates at the published levels as of September 8, 1975.

The purposes of such a limitation were, I believe, most appropriate. In certain sections of the country, fair market rent rates were inflated beyond all reasonable levels, causing tremendous pressures on the administration of this Federal housing program and unexpected and uncalled-for burdens on the taxpayers.

However, the letter of that law also "locked" HUD in on published fair market rents which were at the opposite end of the spectrum, as well. The most critical case, I believe, occurred in my State in southwest Virginia.

There, the fair market rents were set at such a low level that no new construction could be justified under the section 8 program.

Indeed, the new construction rates were lower even than existing housing rates. And because of HUD's arbitrary delineation of regional districts, the city of Bristol, Tenn. had significantly higher fair market rent levels than the city of Bristol, Va., although those cities are divided only by an invisible line down the main street of the metropolitan district.

As a result, the Bristol, Va., market area has been unable to bring in new construction section 8 projects, although there is a crying need for such housing in that area.

My question to the Senator is: Was it the intention of the committee to deny to HUD the administrative flexibility to correct its errors in published fair market rents by adoption of this language?

Mr. PROXMIRE. May I say to the distinguished Senator from Virginia that the answer to his question is "No." This

situation was not within the intent of Congress in limiting HUD's escalating fair market rents. The southwest Virginia case is such that HUD should have, and, in the committee's opinion, does have, the authority to make the necessary increases in the Bristol, Va., area fair market rents to bring that area in line with reasonable, workable levels.

This is so despite the fact that the fiscal year 1977 appropriation does not contain similar language. Although the problem will not exist after October 1, 1976, the committee recognizes that critical delays have already occurred and that the obvious inequity of the Bristol situation should be abated prior to the end of the transition quarter.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wisconsin very much. I hope this will encourage HUD to take prompt, appropriate action, because, as the Senator from Wisconsin pointed out, at the end of the transition quarter, October 1, this provision will terminate anyway.

I thank the Senator from Wisconsin very much.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 120

Mr. ALLEN. Mr. President, I call up an amendment offered by myself and my distinguished senior colleague (Mr. SPARKMAN), and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself and Mr. SPARKMAN, offers unprinted amendment No. 120: On page 27, following line 21 add the following: "and $500,000 for design of a new blind rehabilitation center and eye, ear, nose, and throat clinic at Birmingham, Alabama;"

Mr. ALLEN. Mr. President, this appropriation was in the House bill. For reasons sufficient unto the committee, it was deleted by the Senate committee.

The amendment would restore $500,000 for design of the new blind rehabilitation center and eye, ear, nose, and throat clinic at Birmingham, Ala., which is a needed addition to the Veterans' Administration hospital facilities there.

I regret that the provision for this center was stricken out of the bill in the Senate committee, and I am hopeful that the managers of the bill will allow the restoration of the item.

I might state that had I realized that this center was knocked out by the committee, I would not have agreed to the approval of the committee amendments en bloc, so that the committee amendment striking this item out of the bill would have had to have been considered on its own merits.

I hope that the managers of the bill will allow the $500,000 for this much-needed center and clinic to be restored to the bill.

Mr. PROXMIRE. May I say to my good friend from Alabama that we would really like very much to accept his amendment, but we are in a position where we simply have to say no.

This was unbudgeted. The committee has deleted four unbudgeted projects under "major construction" from the House bill. They were all worthy projects but they would have been in addition to eight major construction projects proposed in a budget amendment at a cost of $268,316,000 in fiscal 1977 with future funding requirements of over $500 million.

The committee members have been very sympathetic to this effort to fund only budgeted projects in an attempt to hold expenditures down.

For example, the Senator from Louisiana (Mr. JOHNSTON), a member of the Appropriations Committee, badly wanted us to begin planning of a replacement hospital in New Orleans but settled for report language directing the VA to give this project a high priority in putting together its fiscal 1978 budget.

The only exception to this general rule was the addition of $3.5 million for an Oklahoma City project, but in this instance we had directed VA to reprogram money for the project last year in report language and the VA declined to do it. We felt we had no choice but to earmark the money in the bill this year.

To summarize, I realize that there are many excellent unbudgeted projects but I also have to recognize that we are approving some very substantial budgeted projects, that we should treat all unbudgeted requests in an evenhanded way, and that a great many add-ons this year would be inflationary given an estimated $50 billion budget deficit.

Mr. ALLEN. The chairman stated that the Senator from Louisiana (Mr. JOHNSTON) was willing to accept a statement that the committee direct the VA to give his installation high priority in its next budget request. Would the distinguished chairman be willing to insert language of that sort at some place in the bill or in the conference report, if the conferees do not agree to accept the House provision on the installation?

Mr. PROXMIRE. The advice of the staff is that it would be very difficult to do that in the bill itself, but I will do my very best to see that such language gets into the conference report, because the Senator has made a good argument. In fact, as the Senator has pointed out to us, this item is in the House bill.

Mr. ALLEN. Yes.

Mr. PROXMIRE. We may find that the House will prevail in conference.

Mr. ALLEN. I recognize that.

Mr. PROXMIRE. If this were to happen the project would be funded. But in any event I think the Senator has made an excellent case here on the floor. He may be assured that, at the very minimum, if the House conferees do not prevail, we will ask for conference report language to the effect that this should be given a high priority in the fiscal 1978 budget.

Mr. ALLEN. I thank the distinguished chairman. I do hope the House will prevail in conference as to this issue, but as a fallback position, if the House does not prevail, I appreciate the attitude of the distinguished chairman that he will see that strong language is inserted in the conference report, asking that the VA set a high priority on this installation in its next budget language.

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

Mr. ALLEN. I yield to the Senator from Maryland.

Mr. MATHIAS. I say to the Senator from Alabama that I think it is a great pity that this item was not budgeted. It should have been budgeted. There is a clear need for it.

Our problem is not with the worth of the project. The Senator is absolutely right about that, as the chairman has frankly stated. I would like to join with the chairman in the assurances he has given.

Mr. ALLEN. Mr. President, I thank the Senator. I state for myself, and I am sure I speak for my colleague (Mr. SPARKMAN) as well, that I appreciate very much the attitude of the chairman and that of the distinguished ranking Republican member.

I am hopeful that the House position will prevail in conference, however.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HUDDLESTON. Mr. President, as a member of the Subcommittee on HUD-Independent Agencies, I would like to comment on several items in this bill.

First, I am pleased that the committee has provided $75 million for the 701 comprehensive planning program. With all the various Federal moneys going into our States, cities, and localities; with all the various Federal programs which offer functional assistance; with all the various problems which our political jurisdictions must contend, comprehensive planning is a necessity, not a luxury. I am well aware that there are planning funds for a variety of functional areas such as health and transportation, but there is only one program—701—where comprehensive planning is the objective. 701 funds can—and are—being used by political jurisdictions for such activities as reorganizing city and county governments, improvements of citywide services, intergovernmental coordination, and measuring the impact of constructing schools, libraries, and other similar facilities. There are no other Federal funds available for planning in these areas.

Second, there are a number of jurisdictions which simply do not have adequate access to planning funds other than 701. States are among these. Some communities under 50,000 which do not fall within the community development areas come under this category.

We continuously hear complaints about the redtape in Washington, about the proliferation of programs. We have gone through a period of examining the grant process and we have adopted several block grant approaches. But the fact remains

that there are many categorical programs, that those programs are in widespread use. And, as long as that is true, then a comprehensive planning process appears essential.

In my own State of Kentucky, planning for a number of functional categories has been turned over to area development districts. In fact, I am proud to say that Kentucky is in the forefront of such planning. Yet, most of those involved in the area development districts will be among the first to tell you that 701 is of utmost importance to them.

Turning to our housing and community development programs, the committee has sought to guarantee an adequate program in a number of areas where there was a possibility of significant reductions. We have insured an appropriation of at least $100 million for the so-called SMSA balance communities under the community development program. The formula for this program operates in such a way that SMSA balance areas could be left without funding were provision for them not expressly made.

The committee has also decided to increase over the budget request the funds available for the section 202 housing for the elderly program which assists in the construction of housing which can meet the special needs of our senior citizens. It has also recommended the continuation of the section 312 rehabilitation loan program which has played an important role in maintaining and improving older neighborhoods in many of our cities.

The committee confronted the same problems which the authorizing committee has been grappling with or how best to provide housing for our lower income families. The new section 8 has been less than satisfactory to many in meeting its stated objectives. Yet, it is still a new program and the results cannot be said to tell a full story at this point. The old conventional public housing program provides more housing more promptly. But, there is no indication that the problems which caused the administration and the Congress to replace conventional housing with section 8 have been overcome. For that reason, our recommendations represent something of a mixed bag—support for conventional public housing and support for section 8. This is no final solution and we will undoubtedly be facing the issue again. But, such an approach should give us the time needed to work out the current difficulties.

Within the public housing program, there is a further matter to which I would like to call the attention of my colleagues—the need for modernization. The committee has recommended funding to expand activities in this area. In addition, it has directed HUD to prepare a report on the nature and scope of modernization needs and on alternative means of meeting those needs. The report is to be prepared after consultation with communities faced with modernization needs and to include information on the methodology used to prepare the study.

Public housing represents an investment. It represents housing which can currently be utilized. To ignore the modernization needs is simply to ignore a resource which can be used immediately and to turn our backs on an investment which has already been made with tax moneys. That is patently unwise.

The most recent survey which HUD did on modernization needs was conducted in late 1973. A number of localities have recently suggested that the study does not reflect current needs. Hopefully, this report will provide additional information so that the committee can more accurately assess such needs and make an effort to meet them.

Mr. KENNEDY. Mr. President, the appropriation we are considering today includes funds for the activities of the National Science Foundation. As chairman of the Senate Special Subcommittee on NSF I would like to take a few moments to call to the attention of my colleagues the importance of the action taken by the Senate Appropriations Committee in approving the full administration request for basic research and in restoring the $56.6 million reduction in these funds which was included in the appropriation when it was received from the House.

The long-term trend in Federal funding of basic research over the past decade has been steadily downward. The Department of Health, Education, and Welfare, for example, when proper account is taken of the $71 million supplemental appropriation to the fiscal 1976 budget, actually suffers a decrease, in constant dollars, of 9 percent in support available for basic research. The net result is that the administration request for the overall support of basic research represents, in constant dollars, a net increase of only 1 percent.

In contrast to this overall trend, the administration's request for basic research supported by the National Science Foundation included an increase of 19.5 percent—12.6 percent when measured in constant dollars. It is an increase which was included in the authorization for the Foundation which I introduced and which was unanimously approved by the Senate last month.

In urging my colleagues to support full funding for basic research I want to call their attention to the fact that 87 percent of the NSF program is performed by colleges and universities. This support is a major determinant of the strength of the U.S. basic research effort and is the key to the effectiveness of the college and university system in expanding frontiers of scientific knowledge. More than 1,300 academic and nonprofit institutions participate in NSF programs in all 50 States and the District of Columbia. In fiscal year 1975, for example, about 18,000 principal investigators—outstanding scientists and science educators—carried out Foundation supported programs with the assistance of more than 12,000 graduate students and technicians.

I would also like to call attention to the testimony presented before my Subcommittee by the president of the University of Virginia, Dr. Frank Hereford. Dr. Hereford testified on behalf of the American Council on Education Association of American Universities and National Association of State Universities and Land-Grant Colleges. The following excerpt from his comments before the subcommittee highlights the importance of the administration's budget request for basic research:

". . . Federal support for basic research has declined by more than 20% in constant dollars since 1968 with serious adverse consequences for all of academic science. Support levels of individual projects have generally remained constant in spite of mounting inflation; and promising lines of investigation have been limited as a result. Scientists and agencies have tended to be caution rather than venturesome. Instruments, the central resource for many lines of inquiry, have deteriorated and need upgrading or replacement.

This stagnation has derived in part from our tendency to support academic science on a crisis-to-crisis basis—from Sputnik to environmental concern to energy production. In each case universities have been called on to establish emergency programs. We believe that the country has wasted resources with this approach. If continuing, stable support for science and universities were provided, their strength could be sustained as a national resource, and the nation's capacity to deal with unforeseen problems would be considerably enhanced.

Our national commitment to science began only at the end of World War II. We need to mold it into a scientific tradition comparable to that which in some Western European nations—Germany and Great Britain, for example—extends back into the nineteenth century.

For these reasons we are particularly pleased that the President's proposed NSF budget provides increased funding for basic research. In terms of the total federal research and development budget the increase is of quite modest proportions. However, the cumulative impact on the nation's basic research community will be positive and substantial. We urge adoption of the President's proposal, and it is our earnest hope that it will prove to be a permanent turning point in federal recognition of the importance of basic research to the national welfare.

Mr. President, I urge the Senate to give its full support to the $610,600,000 included in the pending bill for the support of basic research by the National Science Foundation.

I also urge the Senate conferees, when they are appointed and meet with the House conferees, to exert every effort to insure that the final version of the appropriation includes the Senate's $610,600,000 figure for basic research.

MAINE CLEAN WATER SUCCESS STORY TOLD

Mr. MUSKIE. Mr. President, since Congress enacted the Clean Water Act of 1972, many have followed its progress with great interest. We have heard of difficulties encountered in implementing that act; we have suffered the problem of impoundment of money; we have heard industry complain of unreasonable requirements; and we have been told that the act created a paperwork burden of overwhelming proportions.

Against these criticisms I would like to call attention to the real life success story in the State of Maine.

Maine is a State which does not have a large water pollution control agency, yet it has not been overwhelmed with paperwork; it is a State which does not

have a major engineering department in each city, yet at the same time Maine has performed well in its sewage treatment plants construction program. But more important, Maine's industry will comply with the standards of the 1972 act without even threats of plant closure or work force reduction.

In fact, Maine is a State which has benefited greatly from the provisions of the Clean Water Act. The funds that have been made available for construction grants have stimulated employment in a depressed construction industry. The requirement that industry meet basic national standards is consistent with Maine law which existed prior to the passage of the Clean Water Act.

The Clean Water Act insures the pulp and paper plants and other industrial facilities in other States will have to meet requirements similar to those in an environmentally conscious State like Maine are required to meet.

I am proud of Maine and the following specific accomplishments show why:

All the 26 major pulp and paper producing facilities in the State of Maine will be in compliance with the Federal 1977 requirements. Most will be in compliance with the Maine requirements of best practicable treatment by 1976. None of these papermills has been forced to close or has moved due to the requirements of the 1972 act.

Those companies have spent $83.15 million on pollution control. There are no reliable figures on the jobs created, but one undeniable fact emerges: that money was spent in Maine, and did not jeopardize the industry's expansion during that period.

Under the provisions of the Clean Water Act, Maine had been allotted $153,097,200 in construction grant funds. Of that $153 million allotment, 87 percent or $130,234,111 has been obligated for construction to specific projects throughout the State. Of that obligated money, $104,231,014 is actually under construction or has completed construction. That is 79 percent of the total funds obligated under construuction.

That $131.2 million investment has resulted in the creation of approximately 6,550 jobs in Maine during a time in which the economy was recessed.

The success of the State of Maine under this program gives a clear indication that the objectives of the act can be achieved and have been achieved.

It is common now, and easy, to criticize the effort that government is making. The success of this program in achieving declared national objectives belies the criticism so often made of Federal programs. Maine's success is a positive statement of the ability of the Federal and State government to join together to solve serious national problems.

A letter from the head of the Maine construction grants program to a member of my staff gives the facts to amply demonstrate this point. I ask unanimous consent that it be printed at this point in the RECORD.

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

STATE OF MAINE,
DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
June 9, 1976.

Re: Public Law 92-500 construction projects.

Mr. JOHN FRESHMAN,
Subcommittee on Environmental Pollution, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. FRESHMAN: As discussed by telephone today, this letter will show where our construction grant program is in relation to the total funds received by Maine under PL 92-500. PL 92-500 allotted $153,097,200 to the State of Maine for pollution abatement projects. As of April 30, 1976, we had obligated $131,234,111.

The following communities either have or have had projects under construction with PL 92-500 funds:

Community	*EPA funds*
Winslow	$1,726,500
Machias	1,005,225
Livermore Falls	1,084,800
Penobscot T.R.H.A.	521,955
Lisbon	2,169,750
Blue Hill	256,221
Moosehead S.D.	1,662,750
Brewer	5,277,750
Paris U.D.	3,539,250
Kennebec S.T.D.	16,479,750
Ft. Fairfield U.D.	2,595,000
Jay	790,137
Rumford-Mexico S.D.	5,511,750
Mexico S.D.	215,250
Southwest Harbor	1,671,630
Rockland	444,733
Rangeley	451,750
Manchester S.D.	499,500
Monmouth S.D.	932,850
Old Orchard Beach	1,931,025
Freeport S.D.	2,739,750
South Portland	11,673,000
Winter Harbor	911,100
Portland	28,255,500
Westbrook	7,368,375
York S.D.	826,207
Topsham S.D.	1,269,000
Brunswick S.D.	462,966
Cape Elizabeth	1,957,500
Total	104,231,014

Percentage of Obligated Funds under Construction: 79%.

Percentage of Allotted Funds under Construction: 68%.

Bids have been received but contracts have not been awarded:

Community	*EPA funds*
Rockland	$5,309,977
Millinocket	3,580,740
Wilton	3,008,900
Pittsfield	1,807,191
York S.D.	1,614,443
Portland	1,776,000
Madawaska	1,405,005
Total	18,502,256

Projects out to bid

Community	*EPA funds*
Ellsworth	$2,355,993
Old Town	3,065,729
Milford	521,640
Total	5,943,362

If you add the projects that have been bid but contracts not awarded, the percentage of obligated funds is 94% and the percentage of allotted funds is 80%.

If you add all three categories together, the percentage of obligated funds is 98% and the percentage of allotted funds is 84%.

The 46% figure that was given you from OMB baffles me.

Very truly yours,

DENNIS A. PURINGTON,
Chief, Division of Municipal Services, Bureau of Water Quality Control.

Mr. BROOKE. Mr. President, I strongly support the Senate Appropriations Committee recommendation that $801.6 million be appropriated for the National Science Foundation including $610.6 million for the vitally important field of basic research. That total appropriation is slightly below the President's request and represents a generally responsible and fiscally sound action that will benefit U.S. science, universities and colleges, and the American people. Personally, I would have preferred that at least the full request had been appropriated and I trust that next year we will appropriate a higher figure.

The United States, today, is facing increasing international competition, especially in important areas of high technology where we have been predominant for the past three decades. At the same time, the U.S. work force continues to grow, and it is clear that we must provide jobs for increasing numbers of workers. This will require that the United States stay ahead of its international competitors. This challenge demands that we have a continuing flow of new knowledge to fuel innovation and improved technologies—and in ways that will be environmentally sound. This is the tested road that leads to the establishment of new industries, more jobs and an improved quality of life for our citizens.

Fiscal year 1977 is not a time for retrenchment in basic research. It is not a time for placing restricting handicaps on our science enterprise that will limit its contributions to society. On the contrary, the problems of today and tomorrow demand that we continue to spur the pursuit of new knowledge and new understanding. The times call for a new and expanded vision and for added opportunities for our young people to employ their talents and their knowledge in moving America ahead as we enter our third century as a nation.

There is no shortage of talent; there is no shortage of enthusiasm on the part of our youth; and there is certainly no shortage of challenges; but there is a shortage of financial resources—the resources needed to buy advanced scientific instrumentation and to support research efforts that can provide a foundation on which to build an even better and greater America. That is what is at stake as we consider the National Science Foundation's appropriation for fiscal year 1977.

Research support statistics are not as precise as we would like them to be because of problems of definition and the difficulty of determining an accurate price deflator for science. Nevertheless, the experience of our colleges and universities in attempting to maintain first-rate science programs provides strong evidence that we are in a serious and deteriorating situation with respect to Federal support for basic science and in a se-

rious and deteriorating position in respect to scientific achievement.

Federal support for basic research has actually declined approximately 20 percent in the last decade. And as a result there are many signs of decline now appearing. I quote only a few from the testimony of Dr. Jerome B. Wiesner, president of Massachusetts Institute of Technology, former Special Assistant to the President for Science and Technology, Chairman of the President's Science Advisory Committee, and Director of the Office of Science and Technology:

The Share of the world scientific literature produced by the scientists of this country in the fields of chemistry, engineering and physics has been declining since 1972.

The fraction of nobel prizes awarded to United States scientists over the period 1972–74 was a smaller proportion than was true in 1951–60 in the Fields of physics, chemistry and physiology/medicine.

Between 1966 and 1973 patents awarded to foreign countries increased by 65 percent and by 1963, 30 percent of all U.S. patents were awarded to foreign nationals. This is primarily a measure of relative technological innovation, but it also tends to reflect relative scientific strength.

United States industry is losing its competitive advantage in many highly technical fields ranging from nuclear power to certain classes of instrumentation.

To some degree this was inevitable as other nations rapidly strengthened their scientific capabilities, but it is unfortunate that ours was allowed to decline in effectiveness.

And decline it has. It is significant that, even if all the funds requested in the President's budget for research and development at universities and colleges are provided in fiscal year 1977, the increase in constant 1972 dollars amounts to little over 3 percent. That is surely not a large increase, particularly when we consider that new scientific advances depend on an aggressive effort that can produce a steady stream of research results.

The United States, as it always has, should realize a good return on its science and technology investments. To do this will require a renewed commitment to fund advanced scientific research—basic research in the broad fields of science. The recommended appropriation for NSF is evidence of such a commitment. These and related factors led the President to conclude that even in these times of extreme budgetary constraint, it is in the best interest of the United States to provide for a strong program of scientific research.

The NSF programs are important to America. They are giving emphasis to a broad range of studies that have great potential for benefiting the economy and for improving the quality of life over the longer term. I will note just a few:

NSF support is making it possible for scientists to seek ways of developing safe and effective biological control techniques for insect pests. If successful, we can destroy insects that devour our crops with no adverse effects on the environment.

Studies on nitrogen fixation hold promise for the development of new energy saving processing techniques for chemical fertilizers;

Studies of changes in the earth's magnetic and volcanic forces are helping to develop ways to predict the timing and location of earthquakes;

Analyses of the functioning of chemical and biological catalysts are helping to improve chemical industrial processes;

Investigations of the novel properties of metals at extremely low temperatures are providing the basis for major technological advances in computing, measurement, and other electronic systems; and

Research on the Sun and the Sun's energy is providing essential background knowledge for the Nation's solar energy program.

NSF is a major factor in Federal support for basic research at colleges and universities in all parts of the country, accounting for 40–50 percent of Federal funds for basic research in a number of major science fields. For example, NSF accounts for 43 percent of Federal support for basic research in engineering at colleges and universities, 65 percent in the environmental sciences, more than 56 percent in mathematical sciences, 42 percent in the physical sciences, and 46 percent in the social sciences. NSF support is a major determinant of the overall U.S. basic research effort and is the key to the effectiveness of the college and university system in expanding the frontiers of knowledge.

NSF is the only agency with responsibility for support of basic research over the full range of the science disciplines. Even though the Foundation furnishes only about 23 percent of the total Federal support for basic research, it provides the means for assuring balance in the support of all fields of science. Looking at the NSF budget simply in terms of its own program growth fails to take into consideration the critical Government-wide balancing role of the Foundation in the support of basic research. This important balancing role on NSF was recognized by the President when he provided a substantial increase for the Foundation's fiscal year 1977 budget for basic research, late in the budget preparation process, after it was determined that the overall Federal budget for fiscal year 1977 at that time included inadequate support for basic research. It is important that the Congress also recognizes this balancing role of the National Science Foundation in the support of the Nation's basic research efforts.

The recommended action of the Senate Appropriations Committee is extremely important especially in view of the actions of the House which would reduce NSF's research funding by more than $50 million below the budget request. By giving an overwhelming approval to the Senate version of the Foundation's appropriation bill, we can take an important step in arriving at the needed level of funding for the NSF in fiscal year 1977. Basic research and our universities and colleges all across America will be affected by the action we take on this bill, and positive action by the Senate will give U.S. science a vote of confidence at this crucial time.

I strongly urge the support of all my colleagues in the Senate to approve the proposed appropriation for the National Science Foundation.

EPA'S ENFORCEMENT LETTERS ADMINISTRATIVE EDICT CANNOT AMEND THE LAW

Mr. MUSKIE. Mr. President, on June 3, 1976, the Assistant Administrator of the Environmental Protection Agency issued three documents purporting to establish an enforcement policy with regard to the July 1, 1977, deadline for point sources under the Federal Water Pollution Control Act.

These documents create a mechanism called an "Enforcement Compliance Schedule Letter," which, upon its issuance, would have the effect of extending the period of compliance beyond the statutory deadline. This device is without basis in the Federal Water Pollution Control Act. It is unlawful.

There are distressing aspects to this most recent effort on the part of EPA to avoid admittedly difficult problems and there are two points I would like to make.

First, this new EPA enforcement policy demonstrates a willingness to consolidate within EPA, an executive branch agency, the authority of the legislature and of the judiciary. Problems, however difficult, should not provide the stimulus to disobey the law.

The Federal Water Pollution Control Act of 1972 established a deadline of July 1, 1977—actually for completion of the control requirements established pursuant to the 1965 act. There is no provision for extension of this statutory deadline as was recognized in an opinion of the Administrator in "In the Matter of Bethlehem Steel Corp." In that opinion, the Administrator upheld and quoted his General Counsel—

The Administrator has no discretion to extend the date of compliance.

I ask unanimous consent that this decision be printed in the RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

Mr. MUSKIE. EPA has also properly maintained this position in litigation *State Water Control Board* vs. *Train* (8 ERC 1609) and continues to maintain that position in the appeal taken by the State of Virginia. I ask unanimous consent that this decision be printed in the RECORD at the conclusion of these remarks.

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

(See exhibit 2.)

Mr. MUSKIE. Mr. President, section 301 of the 1972 act prohibits discharge of pollutants without authorization. Section 402 authorizes permits for the discharge of pollutants in compliance with the requirements of the act, including deadlines. Enforcement is authorized under section 309—authorizing Federal EPA enforcement—and section 505—authorizing citizens to seek enforcement in the Federal courts. Section 309 places mandatory burdens on the Administrator to enforce whenever, on the basis of information available to him, a violation of any condition or limitation occurs. The law gives three alternative enforcement routes:

First. He "shall" notify person alleged

of the finding of noncompliance, and, if after 30 days, noncompliance continues, he "shall" issue an enforcement order; or

Second. He shall directly issue an enforcement order; or

Third. He shall bring an action directly in the Federal district court.

Paragraph (4) subsection (a) of section 309 sets forth the contents of all enforcement orders referred to above. Among these, the orders shall state with reasonable specificity the nature of the violation and specify time for compliance "not to exceed 30 days." If such order is not complied with, the Administrator must proceed to court.

There is no discretion granted to the Administrator either on the question of whether to take an enforcement action or to modify or alter the objective of that enforcement action. Enforcement must be of compliance and compliance must be within the terms of the statute; namely, the requirements of section 301, section 302, et cetera.

The Administrator has no discretionary authority under the statute to alter in any way the 1977 deadlines of the act. While it is possible that a court in issuing "appropriate relief" might create new timetables under the equitable jurisdiction of the court, the Administrator has no such authority.

In the event of noncompliance beyond the dates provided for in the act—which may be extended only for the limited period of 30 days beyond the initial EPA order—the Administrator must go to Federal district court to seek the appropriate remedy. That appropriate remedy could include a consent order, an injunction, fines, or a combination of remedies. If Congress does not amend the law, only the authority of the court exists to alter the terms of compliance under the statute.

The Committee on Public Works has rejected as illegal a similar approach taken by EPA under the Clean Air Act. The Administrator has been told repeatedly that relief from deadlines is only available in the Congress and in the courts.

The Senate report (S. Rept. 94-717) on the bill, S. 3219, to amend the Clean Air Act, is very clear:

> Rather than use this provision, which the Agency has burdened with procedural and substantive requirements so that it is unworkable, the Environmental Protection Agency has adopted the practice of issuing enforcement orders under section 113(a) that extend far beyond the deadlines in the law or any dates applicable under section 110(f). This procedure has no basis in law. The only authority for extended deadlines is section 110(f).

Under the guise of semantics, the Assistant Administrator of EPA has seriously eroded a firm statutory position on extensions to the minimal requirements. The enforcement letter extension program removes enforcement credibility in anticipation of problems, which brings me to my second concern.

The Assistant Administrator's directive transfers the authority to grant extensions of the deadlines to the regional administrator and the States, thus assuring no national policy but rather 10 regional policies, and perhaps more. Inequity and rewards for delay are bound to occur. If, as the Deputy Administrator of EPA indicates, in a companion memorandum, only 230 or so point sources will be subject to such extensions, the control and administration over such extensions at the national level, if Congress should ever grant the necessary authority, would not be an overwhelming burden.

There is no reason to suggest the laggard will respond to an EPA extension letter any better than they have responded to the process, under the law to date. As the act requires, persons not in compliance must be brought into court and the authority of the court used to balance equities and supervise remedies, including any court-granted extensions.

The 1972 act created a regulatory program with national minimums to regulate inequities. Statutory deadlines are essential to the equitable scheme established under the 1972 act. Only in the most extreme circumstances and under court order should there be departures. Otherwise, the recalcitrants are rewarded and no penalty accrues.

At a minimum, if Congress should grant authority for extensions, any economic advantage to the source resulting from delay in compliance, whether through their fault or through the fault of the Government, should be eliminated to prevent those sources which complied from being penalized by their respect for and obedience of the law.

The Assistant Administrator's directive seems motivated by a practical problem, which, even if true, is not grounds to violate the law. Yet the practical problem—supposedly a flood of litigation—is anticipatory. And even the Deputy Administrator's figures undermine the claim of a flood of litigations. Two hundred and thirty cases spread among 94 Federal district courts is hardly a flood.

If relief is needed, it should be sought from Congress. And any such request should be accompanied by data on how many cases will be brought to each district court. Also, a request should justify why actions brought under section 309 would not produce a result which is in the public interest or carry out the purposes of the Federal Water Pollution Control Act.

The case has not been made that relief need be granted. Certainly, taking the extreme step of amending the law by administrative memo is not justified. Respect for the law cannot result from this type of action. I hope the Administrator will personally review this action and, to the extent he concludes such extension authority is necessary, will seek it from Congress.

I am taking the unusual step of commenting in the Senate on this administrative matter because it represents another attempt by an agency of the executive branch to act in a manner unauthorized by law.

Previously, this spring, the Administrator departed from the fabric of the Federal Water Pollution Control Act to accommodate a problem with a cluster of steel plants in Ohio. The act requires application of national minimum controls on plants of a class or category, wherever located. Yet, the Administrator in violation of his authority selected out of a class a few plants and eliminated the statute's requirements applicable to them. The new enforcement procedure proposed by EPA would provide an opportunity for regional administrators to authorize similar noncompliance with the law for selected point sources. Only citizen suits would be available to enforce the law. This is tantamount to repeal of deadlines.

Respect for the law is not going to be achieved if the Administrator develops a pattern of altering, without authority, the application of the law. Those who complied cannot conclude other than that their investments were not only not necessary, they were economically senseless. This view would drastically affect progress in the protection of our environment. We would lose the momentum we have gained.

I hope the Administrator will carry out the law in all areas. If difficulties arise, he should seek amendment. He should not take the law into his own hands.

EXHIBIT No. 1

[Docket No. PA-AH-0058]

BEFORE THE ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, D.C.

In the matter of: National Pollutant Discharge Elimination System, permit for Bethlehem, Pennsylvania Plant (Permit No. PA 0011177) Bethlehem Steel Corporation, Permittee

DECISION OF THE ADMINISTRATOR

On September 3, 1975, Bethlehem Steel Corporation ("Permittee") filed a petition for review of a decision issued on August 21, 1975, by the Regional Administrator, Region III in the above-captioned proceeding.

The petition recites that on December 31, 1974, the Regional Administrator, Region III, issued a National Pollutant Discharge Elimination System (NPDES) permit for Permittee's Bethlehem, Pennsylvania plant, following a public hearing held on December 13, 1974. At the hearing, Permittee proposed a compliance schedule for the completion of some 22 projects involved in designing, purchasing and installing facilities required to meet the permit effluent limitations, which called for the completion of Phase I by January 1, 1979, and Phase II by July 1, 1979. The permit issued on December 31, 1974, however, requires that final permit conditions be met no later than July 1, 1977.

On January 16, 1975, Permittee requested an adjudicatory hearing on the following issue:

"May the Environmental Protection Agency establish an effective date for final permit conditions later than July 1, 1977 where final permit conditions are based upon the best practicable control technology currently available and on water quality standards."

On May 29, 1975, the foregoing question was referred to the General Counsel of EPA as a certified issue of law, pursuant to 40 CFR 125.36(m)(3). The General Counsel concluded, in a decision issued on July 24, 1975, that Section 301 of the Federal Water Pollution Control Act, as amended (the "Act"):

". . . clearly requires the achievement, by July 1, 1977, of effluent reductions based on the more stringent requirements of either section 301(b)(1)(A) or 301(b)(1)(C) of the Act. The Administrator has no discretion to extend the date of compliance."

The August 21, 1975, decision of the Regional Administrator, Region III, adopted the conclusion of law decided by the General

Counsel and found no factual or legal question remaining to be resolved in this proceeding. Accordingly, permittee's requests to modify the permit and/or convene an adjudicatory hearing were denied. The subject petition for review of the Regional Administrator's decision was filed thereafter within the prescribed 10 day period.

Permittee takes exception to the conclusion of the General Counsel (on the same grounds argued in its brief submitted to the Office of General Counsel in connection with the issuance of the General Counsel's decision) in the following particulars: (1) the General Counsel's decision addresses the "issue" of whether the effluent limitations in the permit were based on effluent guidelines, proposed guidelines, or water quality standards, which Permittee states is not relevant to the issue in controversy, *i.e.*, whether the Administrator may extend the July 1, 1977, compliance date contained in the Act; (2) the General Counsel's decision suggests that Permittee is challenging the effluent guidelines and the date for compliance set forth therein, rather than the compliance date of July 1, 1977, as set forth in the Act, which they contend is properly reviewable in an adjudicatory hearing since "the compliance date is a condition in the permit as a consequence of the Act and not as a consequence of regulations . . ."; and (3) the General Counsel's decision does not contain an analysis of the legislative history of the Act to determine whether Congress intended that the Administrator have discretion to extend compliance dates for final compliance beyond July 1, 1977. In summary, Permittee contends that the July 1, 1977, compliance date set forth in the Act "is merely an interim date set by Congress for achieving the ultimate objectives and goals by 1983 and 1985," and, as such, may be extended by the Administrator upon a proper showing of inability to comply by that date.

I have examined the language of the Act, as well as its legislative history, and am unable to find any basis to disagree with the conclusion of the General Counsel that, as a matter of law, the Administrator does not have authority or discretion under the Act to extend the July 1, 1977, deadline. The fact that the General Counsel's decision may have addressed other issues which Permittee does not consider relevant to the central issue raised, does not alter the fact that the central issue—the mandatory July 1, 1977, deadline—also was decided.

That issue being the only matter for which review has been requested by the Permittee, I see no need to prolong this proceeding by requesting additional briefs and argument on possible varying interpretations of the Act which might be offered.

Accordingly, the Decision and Order of the Regional Administrator, Region III, which relied upon the aforementioned decision of the General Counsel, is hereby affirmed and the subject permit, as originally issued, shall take effect immediately with the issuance of this decision.

RUSSELL E. TRAIN.

Dated: September 30, 1975.

EXHIBIT No. 2

FRIENDS OF THE EARTH V. CAREY

U.S. COURT OF APPEALS, SECOND CIRCUIT

Friends of the Earth, Friends of the Earth New York Branch, Natural Resources Defense Council, Inc., Sierra Club, Citizens for a Better New York, Citizens for Clean Air, Inc., Committee for Better Transit, Inc., Environmental Action Coalition, Inc., Harlem Valley Transportation Association, Institute for Public Transportation, NYC Clean Air Campaign, New York State Transportation Coalition, West Village Committee, David Sive, and Paul Dubrul v. Hugh Carey, Abraham Beame, David J. Yunich, Michael J. Cobb, Alfred Eisenpreis, Moses L. Kove, Elinor Guggenheimer, Robert A. Low, Michael Lazar, John Zuccotti, Morris Tarshis, Paul O'Dwyer, J. Douglas Carroll, Jr., William J. Ronan, Theodore Karagheuzoff, P.E., James Melton, Ogden Reid, State of New York, City of New York, New York City Transit Authority, No. 75-7497, April 26, 1976

Affirmed in part and reversed in part.

David Schoenbrod and Ross Sandler, New York, N.Y., for appellants.

W. Bernard Richland, corporation counsel, Alexander Gigante, Jr., Nina G. Goldstein, and Isaac Klepfish, New York, for appellees.

James P. McMahon, Stuart Riedel, Nancy A. Serventi. and Terrance J. Nolan, New York, for appellee New York City Transit Authority.

Full text of opinion

Before: Mansfield Timbers, and Meskill, *Circuit Judges*.

Mansfield, *Circuit Judge:*

This appeal arises out of the efforts of a group of the country's leading environmental and citizens' groups to enjoin and roll back the increase in New York City transit fares from 50 cents to 35 cents per ride and to enforce the "clean air" provisions of the Transportation Control Plan for the Metropolitan New York City Area ("the Plan"), which have long been approved pursuant to the Clean Air Act Amendments of 1970, 42 U.S.C. §§ 1857, *et seq.* ("the Act"). Defendants include the State and City of New York and named officials of both governmental entities as well as officials of the New York City Transit Authority[1] ("TA"). The dispute raises important questions concerning the viability of the citizen suit provision of the Act, § 304, 42 U.S.C. § 1857h-2, and the enforceability of the air quality standards enacted by Congress under that statute.

THE STATUTE

To understand the issues a brief prelimary outline of the relevant statutory provisions governing the state's obligation to clean up the air of Metropolitan New York City is necessary.[2] Expressing dissatisfaction with earlier efforts at air pollution abatement,[3] Congress enlarged the federal government's role through enactment of the Clean Air Act Amendments of 1970, 42 U.S.C. §§ 1857, *et seq.* The United States Environmental Protection Agency ("EPA") was instructed to establish national air quality standards of two types; (1) "primary ambient" (outdoor surrounding air) standards necessary for protection of the public health, § 109(b)(1), 42 U.S.C. § 1857c-4(b)(1), and (2) "secondary ambient" standards "requisite to protect the public welfare from any known or anticipated adverse effects associated with "air pollution, § 109(b)(2). Each of the 50 states was obligated within nine months thereafter to submit to the EPA an implementing plan for achievement of these standards, § 110(a)(1), 42 U.S.C. § 1857c-5 (a)(1). In particular, the states' plans were to satisfy the primary, health-related standards "as expeditiously as practicable" but in no case later than three years from the date of EPA approval, § 110(a)(2)(A)(i), and the secondary standards within a "reasonable time" to be fixed by a timetable, § 110(a)(2)(A)(ii). According to the approved timetable, state plans were to be filed by April 1973 and the primary air quality standards met by May 31, 1975. See *Natural Resources Defense Council, Inc.* v *E.P.A.*, 475 F.2d 968 [4 ERC 1945] (D.C. Cir. 1973). Should a state plan prove unsatisfactory in satisfying the ambient standards, the EPA itself is directed by Congress to develop an appropriate implementing plan in its stead, § 110(c)(1).

Since abatement and control of air pollution through systematic and timely attainment of the air quality standards is Congress' overriding objective, a plan, once adopted by a state and approved by the EPA, becomes controlling and must be carried out by the state. Modifications are permitted by the Act only cautiously and grudgingly. The EPA is authorized to approve *revisions* of the original plan, § 110(a)(3), only if it is satisfied that the revised plan still meets the requirements of the national air quality standards, § 110(a)(2). In addition, a state may request *postponement* of plan implementation "for not more than one year,"[4] § 110(f), provided it "can satisfy the stringent conditions" imposed by that provision,[5] *Train* v. *N.R.D.C.*, 421 U.S. 60, 90 (1975). In all other cases full compliance with the plan is mandated See *id.* at 89-90.

FACTS

The history of New York State's steps toward compliance with the Clean Air Act through July 1974 is detailed in our prior opinion. See *Friends of the Earth* v. *E.P.A.*, 499 F. 2d 1118 [6 ERC 1781] (2d Cir. 1974). It is sufficient for present purposes to note that the State submitted to the EPA a plan called the Transportation Control Plan for the Metropolitan New York City Area ("the Plan"), containing 32 mandatory "strategies" or schedules of specific actions to be taken by certain dates to abate air pollution. The strategies were designed to meet the 1975 primary air quality deadline, to maintain air quality beyond that date, to create contingency steps or precedures should the primary strategies fail, and to plan for attainment of the secondary ambient air quality standards. The Plan was approved by the EPA on June 22, 1973, with certain revisions.

In 1974 environmental and citizens' groups attacked the Plan by way of a petition for review, *Friends of the Earth* v. *E.P.A.*, *supra*, arguing that several of the strategies were vaguely worded and inadequate in light of the air pollution standards mandated by the Act. Officials from the federal and state governments defended the strategies. We upheld the Plan in most respects, returning a few provisions to the EPA for further explanation. *Friends of the Earth* v. *E.P.A.*, *supra*. Consequently, with the acceptance by the EPA and judicial ratification by this court, the Plan became binding upon and enforceable against state and local officials, subject only to the narrow revision and postponement provisions allowed by the Act.

Nevertheless, enforcement of the Plan's strategies suffered because of inaction on the part of those legally obligated to put it into effect. In 1974, at the original argument before this court, the State had already fallen behind in compliance and consequently both the EPA and citizen groups had consented to eight other strategies.[6] Administrative action apparently had not even been commenced to enforce the remaining twenty. As of that date, although the Plan was designed to reduce carbon monoxide pollution by 78%, carbon monoxide levels in the City (95% of which are attributable to motor vehicles) had actually increased since pre-Plan days by some 25% and were now five times the level set by federal health standards. Thus these violations were significantly harmful to public health.

In late July the Transit Authority announced a pending transit fare increase from 35 cents to 50 cents. Believing that such an increase would undermine implementation of the Plan, plaintiffs returned to the district court on July 28, 1975, and, through an order to show cause, sought a preliminary injunction restraining the fare increase and ordering Plan enforcement. On August 4, 1975, plaintiffs moved for partial summary judgment enforcing four strategies that indisputably were being violated and that were cited as violations by the EPA. See note 7 *supra*. In addition, plaintiffs again requested the enforcement of the entire Plan.

Footnotes at end of article.

Four days later the EPA ruled that the State had failed to complete its application for a revision and on January 8, 1975, issued notices of violation with respect to 12 of the 32 strategies contained in the Plan, § 113(a)(1), 42 U.S.C. § 1857c-8(a)(1). The EPA, however, refused to initiate judicial enforcement proceedings as authorized by § 113 of the Act and instead attempted to negotiate consensual administrative orders.[6] By July, 1975, three months after the March 31 deadline for satisfaction of the primary ambient standards had expired, the City and State remained in explicit violation of four of the most important strategies[7] and requested that the court order immediate enforcement of the Plan's strategies. The court, however, was unable at that time, because of lack of jurisdiction, to order compliance, 499 F.2d at 1128, in the absence of a suit to enforce the Plan. The Act expressly provides only two methods for securing enforcement: a suit initiated by the EPA, § 113, 42 U.S.C. §1857c-8, or a citizen suit pursuant to § 304, 42 U.S.C. § 1857h-2, which authorizes citizens, as private attorneys general, to enforce state implementation plans provided (a) the citizen gives 60 days' notice of a violation to the EPA, the state and the alleged violator, and (b) the EPA or state has failed within the 60-day period to secure compliance or to bring an action for enforcement. Section 304(a)(1) provides that upon meeting these requirements

"[a]ny person may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation . . . ."

Pursuant to this authority the present citizen action was commenced.

On August 5, 1974, plaintiffs served their citizen suit notice of violations, § 304(b)(1)(A), and, after the required 60-day notice period had expired without compliance by the State and without the initiation of enforcement proceedings by the EPA, plaintiffs on October 11, 1974, commenced their action in the Southern District of New York and applied for preliminary relief. The City sought to avoid injunctive relief on the ground that the Plan was in the process of being formally revised. The State's Assistant Attorney General, on the other hand, adopted a somewhat ambivalent position. See *Friends of the Earth* v. *Wilson*, 389 F. Supp. 1394, 1395–96 [7 ERC 1939] (S.D.N.Y. 1974). He admitted "that he had a great deal of difficulty with his clients' arguments." He also acknowledged that the Plan "is a legally enforceable plan, is a legally adequate plan and that the state is committed . . . to fulfilling its responsibilities thereunder." However, he then informed the court that the "State apparently has no intention of implementing certain strategies," while admitting that "[i]f there is a valid legal ground for such a refusal, we have not been able to find it, your honor." In addition, he disputed the legal contention of both the city officials and the State Department of Environmental Conservation "that the proposed revision precluded enforcement of the plan," by noting that the revision was "speculative at best" and that the Governor-elect had opposed any such revision. Events a mere four days later proved the speaker correct concerning the uncertain nature of the "pending" revision.

The district court, Kevin T. Duffy, *Judge*, recognized that the State and City in effect conceded that they were in noncompliance with the Plan. However, on December 16, 1974, Judge Duffy denied relief, stating that in light of the proposed revision he would await clarification of the EPA's position and that the court lacked the expertise to supervise enforcement, which would involve "highly technical" problems. 389 F. Supp. at 1396.

On August 28, 1975, the district court again denied plaintiffs' requests for relief on several grounds.[9] In refusing to enjoin the fare increase Judge Duffy noted that the original complaint and statutory notice required by § 304(b)(1) had failed to name the Transit Authority ("TA"), the agency to which responsibility for the fare increase had been delegated. Therefore, although notice was given to its sister agency, the Metropolitan Transportation Authority, and to the state authorities officially responsible for compliance with the Plan, and although TA officials had notice in fact, the district court dismissed the complaint as to the TA for violating "[s]tandards of fairness and due process." In addition, the court found that there was a "substantial question" as to whether the court had subject matter jurisdiction over the fare increase since the terms of the Plan did not prohibit such an increase.

The district court also refused enforcement of the Plan. Even though the defendants had not denied plaintiffs' allegations that they were in outright violation of at least four important strategies and were in various stages of noncompliance with the remaining twenty-eight,[10] the district court apparently proceeding on the basis of unsupported assumptions derived from "a plethoria of paper emanating from the parties," concluded that "there exist many true issues of fact. . . ."[11] The court also apparently relied upon the fact that several orders were "presently under negotiation" between EPA and the State. However, the court neither defined these "issues of fact" nor explained the reasons for its unwillingness to enforce those strategies as to which the defendants were clearly in default other than to state that enforcement would necessitate excessive supervision by the district court "where there is already a federal agency charged with the enforcement of the Plan." Accordingly, he ordered that the action be dismissed unless plaintiffs joined the EPA as a party within 10 days. On the following day, August 29, 1975, plaintiffs filed their notice of appeal from the district court's order.

DISCUSSION

Since the district court appears to have labored under some fundamental misconceptions regarding not only the purpose of the citizen suit provisions of the Clean Air Act but also the roles of the parties and the court's own duty in such a suit, some clarification of these matters is essential at the outset.

In enacting § 304 of the 1970 Amendments, Congress made clear that citizen groups are not to be treated as nuisances or troublemakers but rather as welcomed participants in the vindication of environmental interests. Fearing that administrative enforcement might falter or stall, "the citizen suits provision reflected a deliberate choice by Congress to widen citizen access to the courts, as a supplemental and effective assurance that the Act would be implemented and enforced." *Natural Resources Defense Council, Inc.* v. *Train*, 510 F.2d 692, 700 [7 ERC 1209] (D.C. Cir. 1975). The Senate Committee responsible for fashioning the citizen suit provision[12] emphasized the positive role reserved for interested citizens:

"Government initiative in seeking enforcement under the Clean Air Act has been restrained. Authorizing citizens to bring suits for violations of standards should motivate governmental agencies charged with the responsibility to bring enforcement and abatement proceedings."

Senate Committee on Public Works, S. Rep. 91–1196, 91st Cong. 2d Sess., at 35–36 (1970). See also Committee of Conference, H.R. Rep. No. 91–1783, 91st Cong., 2d Sess. (1970), reprinted in U.S.E.P.A., Legal Compilation (Air), Vol. III, at 1386–87 (1973). And the Congress apparently was sufficiently pleased with the operation of the citizen suit section of the Clean Air Act to essentially duplicate the provision in the subsequently enacted Water Pollution Control Act of 1972, § 505, 33 U.S.C. § 1365.

Thus the Act seeks to encourage citizen participation rather than to treat it as curiosity or a theoretical remedy. Possible jurisdictional barriers to citizens actions, such as amount in controversy and standing requirements, are expressly discarded by the Act. As additional encouragement the Act expressly authorizes courts to award costs of litigation to any party when "appropriate," § 304(d); see *Natural Resources Defense Council, Inc.* v. *E.P.A.*, 512 F.2d 1351, 1357 [7 ERC 2041] (D.C. Cir. 1975); *Natural Resources Defense Council, Inc.* v. *E.P.A.*, 484 F.2d 1331 [5 ERC 1879] (1st Cir. 1973).

"The courts should recognize that in bringing legitimate actions under this section citizens would be performing a public service and in such instances the courts should award costs of litigation to such party. This should extend to plaintiffs in actions which result in successful abatement but do not reach a verdict. For instance, if a result of a citizen proceeding and before a verdict is issued, a defendant abated a violation, the court may award litigation expense borne by the plaintiffs in prosecuting such actions." Senate Committee on Public Works, *supra*, at 37.

Once a citizen suit to enforce an EPA-approved state implementation plan has been properly commenced, the district court is obligated, upon a showing that the state has violated the plan, to issue appropriate orders for its enforcement. The court may not, over the plaintiff's objection, escape this obligation on the ground that the EPA is attempting to negotiate consent orders or has not been joined as a party in the citizen suit. Indeed, since it is EPA's failure to obtain compliance and to seek enforcement that brings the citizen suit into play, it would defeat the very purpose of that enforcement mechanism to require that the EPA be dragged reluctantly into the enforcement proceedings. The statute simply obligates the citizen plaintiff to provide the EPA with notice of the Plan's violation and of the upcoming private enforcement suit, § 304(b)(1)(A). The agency can then decide for itself whether or not to participate in the proceedings. "[T]he Administrator has the right to intervene in the suit, but he is not required to be a participant in such litigation and his absence does not render the action infirm." *Metropolitan Washington Coalition for Clean Air* v. *District of Columbia*, 511 F.2d 809, 814–15 [7 ERC 1811] (D.C. Cir. 1975).

Of course the EPA's participation in a citizen enforcement suit is welcomed by the court, since the EPA, as the agency vested by Congress with important overall responsibilities related to the matter under consideration, possesses expertise which should enable it to make a major contribution. But both the underlying rationale and legislative history surrounding the citizen suit provision demonstrate that Congress intended the district court to enforce the mandated air quality plan irrespective of the failings of agency participation. As noted earlier, the very purpose of the citizens' liberal right of action is to stir slumbering agencies and to circumvent bureaucratic inaction that interferes with the scheduled satisfaction of the federal air quality goals.

Nor may the district court deny citizen enforcement of an approved state implementation plan on the ground that the task of supervising enforcement would be unduly burdensome or require the court to grapple

Footnotes at end of article.

with "highly technical" problems. Whatever may be the wisdom of having added this chore to the others imposed by new legislation upon the federal judiciary, Congress' intention that the courts must accept the duty is clear and unmistakable. Realizing that the responsibility for enforcement would thus fall upon the courts, Congress nevertheless viewed a plan's strategies as containing sufficiently clear and specific guidelines to enable a federal judge to direct compliance, armed as he is with the power to obtain such expert advice and assistance as may be necessary to guide him.[13]

"Enforcement of pollution regulations is not a technical matter beyond the competence of the courts. The citizen suit provision is consistent with principles underlying the Clean Air Act, that is the development of identifiable standards of air quality and control measures to implement such standards. Such standards provide manageable and precise benchmarks for enforcement." Senate Committee on Public Works, *supra*, at 37.

Indeed federal courts are daily called upon to resolve complex and difficult questions in many diversified fields such as antitrust, patent, and admiralty. Furthermore, in adopting § 304, Congress specifically considered but rejected arguments advocating the deletion or weakening of the citizen suit section of the Act on the ground that enforcement difficulties would overburden the courts.[14]

With these principles in mind we turn to the issues which are the immediate subject of this appeal: whether the district court erred in (1) refusing to enjoin the transit fare increase, and (2) refusing to enforce those strategies of the Plan which admittedly are being violated and to take steps toward enforcement of the other provisions of the Plan. With respect to the first of these two matters—the fare increase—we hold that the district court did not abuse its discretion in denying preliminary relief. As for the enforcement of the Plan's strategies, we direct the district court immediately to issue such orders as are necessary to enforce those strategies admittedly being violated and to conduct an expeditious hearing to determine the remaining violations and to enforce the other strategies as required by the Plan.

THE TRANSIT FARE INCREASE

Notice

The district court's primary basis for refusing to enjoin the transit fare increase was its finding that the notice given by the plaintiffs to the TA, the governmental agency to which responsibility for the transit fare schedules is delegated by the state, was inadequate. We disagree and find that the notice was clearly sufficient.

On August 5, 1974, as prescribed by the Clean Air Act, § 304(b)(1)(A), 42 U.S.C. § 1857h-2(b)(1),[15] plaintiffs sent their citizen suit notice of violations, including a comprehensive 34-page Table of Violations, to the Governor of New York State, the EPA, and the New York State Department of Environmental Conservation. While claiming that this notice met the requirements of the Act, plaintiffs additionally sent individual notice to each of 15 agents and agencies of the State to whom the State had delegated some responsibility for Plan compliance. In this latter group were officials of New York City and officers of the Metropolitan Transportation Authority ("MTA"), the TA's sister agency, including their joint chairman, David L. Yunich. Although the MTA and the TA technically are separate corporate entities under state law, they have the same chief executive, the same Board of Directors, issue a combined annual report, and, at the time of this suit, were represented by the same General Counsel. Thus David L. Yunich, the head of TA and named defendant in this action, had actual notice of the alleged violations and of the proposed suit, as did the General Counsel of TA, although the notice was addressed to both men in their capacities as MTA rather than TA officials.

The complaint, filed after the 60-day notice period had expired, again named as defendants the state and city officials and David L. Yunich "in his official capacity as chairman of the [MTA]." When plaintiffs later sought to amend their complaint to add the TA as a defendant, the latter moved to dismiss on the ground that the 60-day notice required by the Act had not been provided. The district judge accepted the TAs argument in light of "[s]tandards of fairness and due process and dismissed the complaint. We hold this technical, crabbed reading of the statutes notice requirement to be clearly erroneous and reinstate the complaint as to the TA.

The district courts excessively restrictive construction of the citizen suit notice requirement is completely at odds with the announced purpose of the statutes, which looks to substance rather than to form in an effort to facilitate citizen involvement. As the Senate Committee on Public Works, *supra*, at 36, noted in authorizing the establishment of regulations governing the notice requirement of § 304:

"The regulations should not require notice that places impossible or unnecessary burdens on citizens but rather should be confined to requiring information necessary to give a clear indication of the citizens' intent."

Courts have consistently echoed the theme that the 60-day notice requirement is to be construed flexibly and realistically in order to further its essential purpose of providing "administrative agencies time to investigate and act on an alleged violation" rather than to hinder citizen participation. *Natural Resources Defense Council, Inc.* v. *Callaway*, 524 F. 2d 79, 84, n. 4 [8 ERC 1273] (2d Cir. 1975); *Conservation Society of South Vermont, Inc.* v. *Secretary of Transportation*, 508 F. 2d 927, 938–39 [6 ERC 1236] (2d Cir. 1974), *vacated on other grounds*, 96 S. Ct. 19 (1975).

[1] Looking both to the letter of the statute and to the purposes underlying the citizen suit provision, plaintiffs adequately performed their responsibility of providing informative notice. Under the Act the parties required to be notified were the "Administrator," § 304(b)(1)(A)(i), the "State in which the violation occurs," § 304(b)(1)(A)(ii), and the "alleged violator," § 304(b)(1)(A)(iii). It is undisputed that the Administrator and the State were both notified. The only remaining question is whether the requirement of notice to the "alleged violator" obligates the citizen to give formal notice directly to all of the involved agencies of the State in addition to notice to the primary State officials. Since the agencies merely act as delegates of the State, we hold that it does not.

As the State of New York recognizes,[16] it, rather than its local agency, is responsible under the Act and relevant regulations for the creation and enforcement of its Air Pollution Abatement Plan, § 107(a), 42 U.S.C. § 1857c-2; 40 C.F.R. § 51.11(f). Although it may choose to act through designated agents such as the TA, such designation does not relieve the State of its responsibility to carry out the Plan. See 40 C.F.R. § 51.11(f). For purposes of receiving formal statutory notice, the State and its agencies therefore must be treated as one; service of notice upon the State is service upon the "alleged violator" within the meaning of § 304(b)(1)(A)(iii), since the State as the principal is legally responsible for the acts of its agent. The Act's notice requirement was therefore satisfied by service of notice upon the State as the alleged violator.[17]

Our interpretation of the Act's provision for citizen suit notice accords with EPA's own practice of treating notice to the State as notice to the TA. Before commencing suit under § 113(a)(1), 42 U.S.C. § 1857c-8(a)(1), the EPA must give notice of the violation to "the person in violation of the plan and the State in which the plan applies. . . ." On January 8, 1975, in issuing notices pursuant to this section for alleged noncompliance with the express bus strategy of the Plan, responsibility for which is delegated by the State to the TA, the EPA notified the State, not the TA directly, that the State and City of New York are "in violation of the Transportation Control portion of the New York City . . . Plan." Subsequently it was the State, not the TA, that admitted violation of the strategy in a consent order dated April, 1975. The Act does not require or warrant the imposition of more onerous burdens of notice upon citizen plaintiffs than upon the EPA itself. As evident here, a state air pollution plan is likely to involve participation on the part of literally dozens of state and local agencies. To require that precise formalistic notice be provided to each is to erect wholly unrealistic barriers to citizens access to the courts as insured by Congress. The citizen would be relegated to a guessing-game reminiscent of strict common-law pleading long ago discarded.

Nor does the record support the district court's conclusion that the notice in this case violated "[s]tandards of fairness and due process." This statement first turns upon the court's erroneous assumption that the TA "is nowhere mentioned in the complaint." In fact, ¶ 44 of the Amended Complaint and the accompanying Table of Violations expressly refer to the Transit Authority as failing to perform its responsibilities under the Act. This complaint, which must be construed liberally, *International Controls Corp.* v. *Vesco*, 490 F.2d 1334, 1351 (2d Cir.), *cert. denied*, 417 U.S. 932 (1974); *Local 33, International Hod Carriers* v. *Mason Tenders*, 291 F.2d 496, 502 (2d Cir. 1961), is plainly sufficient in apprising the TA of the allegations leveled against it and the relief sought. Moreover, it is undisputed that actual notice was provided both to David L. Yunich and to the MTA. Regardless of the hat being worn by the joint officials of the MTA and TA, this notification in fact advised them of the proposed citizen suit and afforded them the requisite opportunity and time to investigate and to act on the alleged violation. This amply satisfies the language and spirit of the Act and the purposes to be served by a notice requirement under prevailing liberal pleading rules. Accordingly, we reinstate the TA as a defendant in the action.

Subject matter jurisdiction

As a further ground for refusing to enjoin the transit fare increase the district court stated that "[t]here is also a substantial question in my mind as to whether this Court has subject matter jurisdiction over the fare increase," since jurisdiction was grounded upon the Clean Air Act, § 304(a)(1), and the Plan promulgated thereunder "does not contain any language prohibiting a fare increase." We agree that jurisdiction is not available in this enforcement proceeding to test the validity of the fare increase.

[2] The citizen suit provision of the Act speaks in specific terms, conferring jurisdiction on the court to entertain any citizen suit claiming a violation of "an emission standard or limitation under this chapter" or of "an order issued by the Administrator or a State with respect to such a standard or limitation . . ." § 304(a)(1). The stabilization of transit fares is not an expressed strategy of the Plan as adopted by the State, accepted by the E.P.A , and upheld by this court. *Friends of the Earth* v. *E.P.A.*, *supra*, 499 F.2d at 1125. As a result, the fare increase is not an overt violation of the above

Footnotes at end of article.

provisions of § 304 and we lack subject matter jurisdiction to review the propriety of the TA's action.

In finding lack of jurisdiction to roll back the transit fare increase at this time, however, we hasten to point out that our earlier decision in *Friends of the Earth* v. *E P.A., supra,* was predicated on the assumption that compliance with the Plan's other strategies, particularly those limiting parking spaces in business districts and providing express bus service, would achieve the overriding objective of "compelling [drivers] to use other modes of travel besides automobiles . . . ." See *id.* at 1125. This basic assumption has proven to be misguided. Noncompliance with most of the specified provisions of the Plan is undisputed, resulting in heavy increases in air pollution. Under present conditions, both the EPA[18] and state authorities[19] agree, furthermore, that the transit fare increase can be expected to produce approximately a 10% loss of rapid transit ridership, which would have an adverse influence on the Plan's central aim of inhibiting reliance on the automobile. Further, both apparently are in accord that a formal § 110 revision of the Plan may be necessary to take into account the fare rise.[20] Should these serious predictions prove to be accurate,[21] the EPA or citizen groups, of course, are free to seek appropriate revisions of the Plan under the Act. But such review does not rest upon § 304 and accordingly we are without jurisdiction to order transit fare relief.

Enforcement of the plan

[3] The primary relief sought by the citizen plaintiffs is enforcement of the Plan, which was approved by the EPA pursuant to § 110(a)(2) of the Clean Air Act, 42 U.S.C. § 1857c-5(a)(2), and upheld by this court some 20 months ago, *Friends of the Earth* v. *E.P.A., supra.* Specifically, the plaintiffs seek reversal of the district court's denial of partial summary judgment which would compel enforcement of the four strategies of the Plan[22] being violated by the State.[23] Plaintiffs also desire to pursue their claim that the State is in default in implementing the remaining strategies and to obtain judicial enforcement of these strategies. The plaintiffs' right under the Act to seek such an enforcement order is beyond challenge, § 304, 42 U.S.C. § 1875h-2. They have fully discharged their responsibility to provide statutory notice, § 304(b)(1)(A). Sixty days have passed without any action by the EPA or the State that would displace their citizen suit, § 304(b)(1). The district court, however, ordered that their action be dismissed "in its entirety unless the plaintiffs within 10 days" serve additional notice[24] on the EPA to induce the agency's intervention. The court reasoned that the "fact that the parties have advised that there are other orders presently under negotiation" between the State and the EPA "clearly [raises] a question of fact." Further, the court concluded that "the general policy is that the courts should not grant relief which requires continuous judicial supervision." Consequently, Judge Duffy in effect made the EPA an indispensable party to the action and rejected the task of judicial supervision as too onerous. We reverse and remand with instructions set forth below.

EPA-State negotiations

In denying relief under the citizen suit provisions the court referred to the existence of ongoing negotiations between the EPA and State and City Authorities designed to reach consent decrees carrying out the Plan's mandated strategies. We join the district court in recognizing the utility of such deliberations and the desirability of attaining compliance through consensual means. But it is equally clear that the statute empowers neither the EPA nor the State to delay the approved Plan's strategies through negotiations, be they formal or otherwise. Negotiations are no substitute for enforcement and for timely compliance with the Plan's mandated strategies. Consequently, the district court erred in permitting the continuation of EPA-State discussions to bar suit by citizen groups seeking judicial enforcement of the Plan's expressed provisions. The Act authorizes only two procedural routes for modifying the Plan: a § 110(a)(3) revision or a § 110(f) postponement. In all other instances, the State is relegated to a lone option: compliance. See *Train* v. *N.R.D.C., supra,* 421 U.S. at 89-90; *Metropolitan Washington Coalition for Clean Air* v. *District of Columbia, supra,* 511 F.2d at 811. As the Senate Committee that devised the citizen suit procedure made clear:

"[T]he factual basis for enforcement of [the Plan's] standards would be available at the time enforcement is sought, and the issue before the courts would be a factual one of whether there had been compliance." Senate Committee on Public Works, *supra,* at 37.

The EPA-State conversations hardly satisfy either of the exclusive modification mechanisms authorized under the Act. In relying upon the negotiations as a basis for deferring enforcement, the district court in effect granted a *de facto* revision beyond that permitted by Congress and without any of the performance safeguards that precondition the granting of modifications and postponements under § 110 of the Act. Such a step plainly violates the statutory scheme and cannot be used to nullify the citizen's statutorily-guaranteed right of enforcement.

EPA as an indispensable party

For reasons already stated the district court's decisions to convert the EPA into an indispensable party and to deny relief because of the burdensomeness of the judicial supervision it would entail were clearly erroneous. The suggestion that, in compelling joinder of the EPA, the district court merely applied the broad discretion granted it under Rules 19 & 21, F.R. Civ. P. is unsound. The general authority thus vested in the judiciary to manage ordinary litigation does not entitle the court to contradict a clearcut, specific legislative scheme or to emasculate the citizen suit provision created by Congress. In doing so, and in denying citizen enforcement of the lawfully established Plan, the district court abused its discretion under the Act.[25]

CONCLUSION

We are aware that enforcement of the air quality plan might well cause inconvenience and expense to both governmental and private parties, particularly when a congested metropolitan community provides the focal point of the controversy.[26] But Congress decreed that whatever time and money otherwise might be saved should not be gained at the expense of the lungs and health of the community's citizens:

"The protection of public health—as required by the national ambient air quality standards and as mandated by provisions for the elimination of emissions of extremely hazardous pollution agents—will require major action throughout the Nation. Many facilities will require major investments in new technology and new processes. Some facilities will need altered operating procedures or a change of fuels. Some facilities may be closed.

"The requirements for State action will be broadened. And the obligation of polluters will be greatly increased. What has been a program focused on uniquely critical area, underfunded and inadequately manned, will become truly national in scope and will require an immediate increase in personnel and funding." Senate Committee on Public Works, *supra,* at 1. See also House Committee on Interstate and Foreign Commerce, H.R. Rep. No. 91-1146, 91st Cong., 2d Sess., at 4-5 (1970).

The record before us is one that cries out for prompt and effective relief if the congressional clean air mandate is to have any meaning and effect in New York City. We cannot disregard the frank statement made by New York State's Assistant Attorney General some two years ago, that this "is a legally enforceable plan. . . . a legally adequate plan," and that "[i]f there is a valid legal ground for . . . a refusal [to enforce the plan], we have not been able to find it . . ." Yet it is beyond serious dispute that the defendants are now almost a year in default in carrying out the principal strategies of the mandated Plan, which are central to achieving the primary ambient air quality standards prescribed by Congress, with the result that the public of New York City is exposed to carbon monoxide pollution that has in the meantime climbed to over five times the federal health standards. The court cannot consistently with its duty be a party to the delaying process that has led to this situation. The Senate Committee on Public Works, discussing the purpose of the citizen suit provision in its Report on the Clean Air Act Amendments of 1970, made this clear:

"If the Secretary and State and local agencies should fail in their responsibility, the public would be guaranteed the right to seek vigorous enforcement action under the citizen suit provisions of section 304.

* * * * *

"The Committee believes that if the timetables established throughout the Act with respect to ambient air quality standards necessary to protect public health are to be met, the threat of sanction must be real, and enforcement provisions must be swift and direct. Abatement orders, penalty provisions, and rapid access to the Federal District Court should accomplish the objective of compliance." Senate Committee on Public Works, *supra,* at 20, 22.

Accordingly, we affirm the denial of the preliminary injunction restraining the transit fare increase.

In all other respects we reverse the district court's decision and remand the case to that court with the following instructions:

1. The Transit Authority should be reinstated as a defendant in the action;

2. Partial summary judgment should be entered in favor of plaintiffs, directing enforcement of the four strategies listed in note 7 *supra,* the court to take such further steps as are necessary to insure enforcement of these strategies;

3. Further hearings should be held promptly to determine whether the defendants are in default in carrying out any of the remaining strategies and, if so, the court should enter such orders and take such other steps as are necessary to enforce those strategies being violated by the State.

Since time is of the essence in providing such relief as may be appropriate in this case, we direct that the case be given priority on remand and that, if Judge Duffy's schedule precludes his handling it promptly, the case be reassigned to another judge who is in a position to do so.

The mandate shall issue forthwith.

FOOTNOTES

[1] Neither the State nor State government officials appeared before this court or the district court to answer plaintiffs' challenges. Attorneys for the New York City Transit Authority and for the City government appeared and filed briefs.

[2] For further discussion of the history and operation of the statute, see the descriptions by the Supreme Court in *Train* v. *N.R.D.C.,* 421 U.S. 60, 63-67 [7 ERC 1735] (1975), and by this court in *Friends of the Earth* v. *E.P.A.,* 499 F.2d 1118, 1120-23 [6 ERC 1781] (2d Cir.

Footnotes at end of article.

1974). See also Luneberg, *Federal-State Interaction Under the Clean Air Amendments of 1970*, 14 B.C. Ind & Com. L. Rev. 637 (1973).

[2] See, e.g., Pub. L. 86-493, 74 Stat. 162 (1960); Clean Air Act of 1963, 77 Stat. 392; 79 Stat. 992 (1965 amendments); 80 Stat. 954 (1966 amendments); Air Quality Act of 1967, 81 Stat. 485.

[3] The Supreme Court has left open the question of whether successive postponements are permissible, noting that such a step appears in tension with the final bill that emerged from Conference, which deleted explicit language found in a predecessor Senate bill authorizing repeated postponements. *Train* v. *N.R.D.C., supra,* 421 U.S. at 85-86 n. 21.

[5] These conditions, listed in the conjunctive in the statute, include a history of good-faith efforts to comply with the Plan, the unavailability of requisite technology, alternative procedures that mitigate the damage to public health, and the importance to "national security or to the public health or welfare" of the continued operation of the pollution source. § 110(f)(1)(A)-(D).

[6] The Administrator of the EPA is authorized, upon finding that an implementation plan is being violated, to issue orders directing the person in violation of the Plan to comply. However, if that person violates the order the Administrator's only recourse is to commence a civil action in the district court for appropriate relief. See § 113(a)(1), (4) & (b), 42 U.S.C. § 1857c-8(a)(1), (4) & (b). Any person who knowingly violates an implementation plan's requirements or an order issued by the Administrator is guilty of a misdemeanor punishable by a fine of not more than $25,000 per day of violation or by imprisonment for not more than one year, or both, § 113(c)(1).

[7] These strategies are: reductions in business district parking, selective ban on taxicab cruising tolls on the East and Harlem River bridges, and night-time freight movement. The last two of these strategies were added to the primary strategies by Governor Rockefeller on April 17, 1973, in a letter to the EPA in which the Governor requested, and subsequently received, extensions of time to meet the photochemical oxidants standard and carbon monoxide standards of the original plan.

[8] Emission inspections of cars, trucks, and taxicabs, mechanic training, enforcing existing traffic regulations, traffic management, increased express bus services, and retrofit of trucks. Even here, however, the plaintiffs allege that City and State officials have failed to comply with the administrative order. The EPA recently has filed separate suit to enforce the taxicab-inspection strategy.

[9] 74 Civ. 4500. The order and opinion are not officially reported.

[10] Indeed, at oral argument before this court the City's attorney also acknowledged widespread noncompliance with the air quality plan, although he disliked that choice of words and preferred to state that the City "had fallen behind" the mandated timetable. The State, although primarily responsible for Plan compliance, has remained silent on this appeal.

[11] Judge Duffy, referring to the eight strategies with respect to which formal administrative consent orders had been negotiated between the State and the EPA, see note 8 *supra,* noted that plaintiffs alleged that even these orders had not been complied with and proceeded to surmise that "[i]t must be assumed that defendants would disagree with this allegation." From this he apparently concluded that, since "it must be assumed" that at least these eight of the 32 strategies remain in dispute, relief is properly denied as to all of the Plan's provisions.

[12] The House bill contained no provision for citizen suits. The Senate version prevailed in Conference Committee. See Committee of Conference, H.R. Rep. No. 91-1783, 91st Cong., 2d Sess. (1970), reprinted in U.S.E.P.A., Legal Compilation (Air), Vol III, at 1386 (1973).

[13] As the substantial flow of affidavits submitted on behalf of the parties demonstrates, the district court operating in an adversarial setting can expect to derive considerable technical assistance and clarification from experts provided by the parties themselves. In addition ,opportunities are open for the court to arrange for neutral technical advisors and experts to assist him in the performance of his duties. See generally Leventhal, *Environmental Decisionmaking and the Role of the Courts,* 122 U. Pa. L. Rev. 509, 546-49 (1974).

[14] For the arguments opposing § 304 on this basis, see Cong. Rec. Vol. 116 (Sept. 21-22, 1970), at 32,925-26 (Senator Hruska); *id.* at 33,102 (Senator Griffin). For the major responses, see *id.* at 32,926-27 (Senator Muskie); *id.* at 33,104 (Senator Hart).

[15] "No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(a) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the standard, limitation, or order. . . ."

[16] In an affidavit submitted to the district court on August 1, 1975, the Assistant Attorney General of New York State acknowledged: "The State of New York is charged under the Federal Clean Air Act Amendments of 1970 . . . with the responsibility of achieving full compliance with national ambient air quality standards. . . . The State will exercise its full enforcement responsibility under the Act to insure Statewide compliance, including the City of New York."

[17] Our interpretation does not render superfluous the third prong of the notice requirement. The apparent overlap between (ii) and (iii) will not arise when a private party, rather than a delegated public agency, is in violation of the Plan. In such an eventuality, the State still must be notified under (ii) while the private party, as "alleged violator," receives separate notice under (iii). See 40 C.F.R. § 54.2.

[18] At the request of Judge Duffy, Gerald M. Hansler, Regional Administrator of the EPA, on August 1, 1975, submitted a letter explaining the agency's position on the fare increase. The EPA flatly predicted that the hike will "induce more subway and bus passengers to use their cars," and noted that the EPA consequently may require a § 110 revision of the original plan requiring even "more effective pollution control measures. . . ." The Administrator also stated that the City's failure to impose toll fares upon the East and Harlem River Bridge crossings, as provided in the Plan, has deprived the City of a valuable source of revenue designed to substitute for transit fare increases; this complies with the State's position before this court during the first appeal of this case that the bridge tolls, in addition to encouraging carpooling and abating pollution directly, were intended "to raise revenues for the City mass transit system. . . ." In conclusion, the EPA held: "To reiterate, we believe that an increase in fares on [Transit Authority] subways and buses will detrimentally affect the public health and welfare and that other measures are available, and required by the present TCP [the Plan], which would avoid this harmful result."

[19] In an affidavit submitted by New York State Assistant Attorney General James P. Corcoran, dated August 1, 1975, the State predicted a loss of ridership of approximately 10%, producing "an increase in vehicular traffic in the Manhattan central business districts, to the detriment of air quality in that area." But until the deterioration in air quality "can be projected with greater certainty," the State felt itself to be in an inadequate position "to assess what additional measures need to be undertaken," although it recognized that a formal § 110 revision of the Plan might be necessary to achieve the ambient air standards.

[20] See the statements of the EPA and State officials, notes 18 and 19 *supra.*

[21] The TA predicts a loss of ridership in the vicinity of 3-4%, but has not produced complete and organized figures to substantiate its prediction. Furthermore, none of the parties has attempted to accurately translate any resulting loss of ridership into increases in automobile usage. It is the reduction of the automobile as a source of pollution, rather than the gain of transit riders *per se* that is the objective of the State's Plan.

[22] See note 7 *supra.*

[23] As noted previously, the EPA on January 8, 1975, cited the State for violations of these four strategies. In an affidavit submitted to the district court on August 1, 1975, the Assistant Attorney General of the State of New York acknowledged that these strategies presently are "under negotiation" and while agreement ostensibly "has been reached" with respect to taxi cruising and after-hours goods delivery, no orders effectuating any of the four strategies had yet been issued. Similarly, the City did not claim adherence to the four strategies in its papers below. Quite the contrary, the district court literally was forced to "assume . . . that defendants would disagree with this allegation" of noncompliance with the Plan, and even here Judge Duffy was speaking specifically of the eight strategies to which administrative consent orders had been entered not the four remaining strategies to which the State and City officials had formally refused to consent. See notes 10 and 11 *supra.*

[24] Judge Duffy purported merely to require that plaintiffs serve the "proper notice" to the EPA under § 304(b)(1) of the Act. This characterization, however, is incorrect. Plaintiffs in fact served the "proper notice" on August 5, 1974, when they commenced their citizen suit. After Judge Duffy denied their first request for a preliminary injunction on December 16, the parties tried to reach accord through negotiations with the EPA. The failure of the negotiations and the increase in the subway fare prompted the citizen group to return to the district court and, through a show cause order dated July 28, 1975, to resume their request for a preliminary injunction based upon their 1974 complaint. Thus the plaintiffs were not obliged under the Act to give additional notice to the EPA when they had already provided the requisite statutory notice upon commencing the lawsuit; the district court's instruction to provide formal notice to the EPA in effect was a command for additional notice beyond that required by the Act. Moreover, it should be noted that the EPA was made aware of the reactivated lawsuit and was asked and permitted to participate; in response the agency chose to send a letter expressing its position. See note 18 *supra.*

[25] The further suggestion by defendants that EPA involvement was warranted to prevent conflicts in enforcement policy between the agency and citizen groups also is without merit. The citizen suit may only proceed in the event of agency inaction, § 304(b)(1)(B), and even then the EPA can participate in the creation and coordination of the judicial response by intervening as a matter of right. Furthermore, to enforce its own orders the EPA also must repair to the district court, § 113(b), 42 U.S.C. § 1857c-8, where the action can be consolidated with any pending citizen suit to insure uniformity of relief.

[26] See, e.g., *Metropolitan Washington Coalition for Clean Air* v. *District of Columbia,* 511 F.2d 809 (D.C. Cir. 1975) [7 ERC 1811] (Washington, D.C.); *South Terminal Corp.* v. *E.P.A.,* 504 F.2d 646 (1st Cir. 1974) [6 ERC

2025] (Boston); *Commonwealth of Pennsylvania* v. *E.P.A.*, 500 F.2d 246 [6 ERC 1769] (3d Cir. 1974) (Philadelphia); *State of Texas* v. *E.P.A.*, 499 F.2d 289 [6 ERC 1897] (5th Cir. 1974), *stay denied*, 421 U.S. 945 (1975) (major Texas cities).

The PRESIDING OFFICER. Who yields time? Do Senators yield back the remainder of their time?

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

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

The PRESIDING OFFICER. The question is, Shall the bill pass? 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. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON), and the Senator from Indiana (Mr. BAYH) are absent because of illness.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Dakota (Mr. BURDICK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Arizona (Mr. GOLDWATER).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from Arizona would vote "nay."

I further announce that, if present and voting, the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 53, nays 2, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—53

Bartlett	Ford	Moss
Beall	Glenn	Nelson
Bellmon	Gravel	Nunn
Biden	Hansen	Packwood
Bumpers	Hart, Philip A.	Pearson
Byrd, Harry F., Jr.	Hathaway	Pell
Byrd, Robert C.	Hollings	Proxmire
Cannon	Huddleston	Randolph
Case	Jackson	Ribicoff
Church	Javits	Roth
Clark	Kennedy	Schweiker
Cranston	Magnuson	Scott, Hugh
Dole	Mansfield	Sparkman
Durkin	Mathias	Stevens
Eastland	McGee	Stevenson
Fannin	McGovern	Stone
Fong	Metcalf	Thurmond
	Morgan	Young

NAYS—2

Allen	Helms

NOT VOTING—45

Abourezk	Hart, Gary	Muskie
Baker	Hartke	Pastore
Bayh	Haskell	Percy
Bentsen	Hatfield	Scott, William L.
Brock	Hruska	Stafford
Brooke	Humphrey	Stennis
Buckley	Inouye	Symington
Burdick	Johnston	Taft
Chiles	Laxalt	Talmadge
Culver	Leahy	Tower
Curtis	Long	Tunney
Domenici	McClellan	Weicker
Eagleton	McClure	Williams
Garn	McIntyre	
Goldwater	Mondale	
Griffin	Montoya	

So the bill (H.R. 14233), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of H.R. 14233 and the Senate amendments thereto.

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

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

The motion was agreed to; and the Chair appointed Mr. PROXMIRE, Mr. PASTORE, Mr. STENNIS, Mr. MANSFIELD, Mr. BAYH, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. MCCLELLAN, Mr. MOSS, Mr. MATHIAS, Mr. CASE, Mr. FONG, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG conferees on the part of the Senate.

S. 3625—FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

Mr. JAVITS. Mr. President, I send to the desk a bill on behalf of Senator RIBICOFF and myself, and I ask that it be reported.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3625) to extend the expiration date of the Federal Energy Administration Act of 1974.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be deemed to have objected to further proceedings after second reading and that the bill be placed on the calendar.

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

Mr. RIBICOFF. Mr. President, the bill introduced by my friend and colleague, Mr. JAVITS, certainly has my support. I am sure that we all remember the extensive debate on S. 2872, the FEA Extension Act. The act, as passed by the Senate was a substantially different bill from the one as reported by the Committee on Government Operations.

We are currently in a conference with the House on this act. We have been working all of this week, and have meetings scheduled for next week. All of the conferees have been working most diligently to report out of conference a bill by the 30th. However, it became apparent, late yesterday, that it would be impossible to reconcile the vast differences in the two bills by the date on which the agency expires.

The 30-day extension, as proposed by Senator JAVITS, would permit the conferees to continue to reconcile their differences and would provide for the responsible continuation of programs carried out by the Federal Energy Administration.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. on Monday.

After the two leaders or their designees have been recognized under the standing order, the Senate will take up H.R. 14232, the Labor-HEW appropriations bill.

At no later than 2 p.m., if that bill has not been disposed of, the Senate will resume consideration of the unfinished business, H.R. 10612, at which time the pending question before the Senate will be on the adoption of the maximum tax amendment. There is a time limitation on that amendment, and rollcall votes will occur during the morning on the HEW appropriations bill and/or on amendments thereto; and during the afternoon rollcall votes are expected to occur on the maximum tax amendment.

The agreement is to the effect that final disposition of the maximum tax amendment will occur at no later than 8 p.m. on Monday.

On Monday, the Senate will be in late, and daily next week the Senate will be in early and late. I anticipate that the

Senate will be coming in earlier than 9 a.m. on each day after Monday.

I anticipate very late sessions—I emphasize very late sessions—daily, beginning with Monday next week.

There is quite a heavy load of business to be transacted, and it is hoped that the Senate will make adequate progress; but it is the leadership's view that such progress can be made only by having very early and very late sessions, with rollcall votes occurring early and late.

RECESS UNTIL 10 A.M., MONDAY, JUNE 28, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. on Monday.

The motion was agreed to; and at 2:10 p.m., the Senate recessed until Monday, June 28, 1976, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate on June 26 (legislative day of June 18), 1976:

MISSISSIPPI RIVER COMMISSION

Brig. Gen Elvin Ragnvald Heiberg III, Corps of Engineers, to be a member of the Mississippi River Commission under the provisions of section 2 of the act of Congress approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

APPALACHIAN REGIONAL COMMISSION

George G. Seibels, Jr., of Alabama, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

DEPARTMENT OF JUSTICE

David W. Martson, of Pennsylvania, to be U.S. attorney for the eastern district of Pennsylvania for the term of 4 years.

John J. Smith, of Delaware, to be U.S. marshal for the District of Delaware for the term of 4 years.

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.

SENATE—*Monday, June 28, 1976*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JESSE HELMS, a Senator from the State of North Carolina.

PRAYER

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

Eternal God, who art the source of our life and the end of our pilgrimage, we praise Thee for Thy presence with us all our days. Thou dost satisfy us in the morning with Thy loving kindness, Thou dost uphold us at noonday in the strength of Thy Spirit; and when evening comes Thou art our hope and our rest.

May the knowledge of Thy presence support us, in health and in sickness, in joy and in sorrow, in hope fulfilled and hope denied. Purify our motives; deepen our understanding; quicken our hearts; give us strength of mind and body sufficient for our tasks. Enable us to go forth each day in the confidence Thou art with us amid the storms and stresses of life; that with Thee is forgiveness for sin; strength for the day and peace at the last; through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 28, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JESSE HELMS, a Senator from the State of North Carolina, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HELMS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, June 26, 1976, be approved.

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

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services be granted permission to meet during the session of the Senate to consider nominations.

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

ORDER OF BUSINESS

Mr. MANSFIELD. I desire no time.

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader seek recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the conduct of morning business of not to exceed 30 minutes with a time limitation of 3 minutes attached thereto.

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

MANSFIELD: A LOW-KEY ROCK OF INTEGRITY

Mr. PERCY. In a recent article in the Christian Science Monitor, entitled "Mansfield: A Low-Key Rock of Integrity," Senator MANSFIELD discussed many issues, including the work of the Senate and his conversations through the years with Presidents of the United States. Comments are made also about the characteristics of our distinguished majority leader.

There have been questions raised as to whether the Senate has the firm, strong leadership that it has had at various times in the past. Comparisons often are made with the days of Senator Lyndon Johnson who, obviously exerted considable force and power.

I did not serve under Majority Leader Lyndon Johnson; I have served as a Senator for a decade with Senator MANSFIELD as our majority leader. Never in my own experience in industry, education, philanthropy, or in Government have I respected a leader as much as I respect Senator MANSFIELD.

I consider him as a man of integrity and decency which has never been questioned. I consider him as a man of honor, honesty, and fairness in dealing with his colleagues, giving equal consideration for all points of view. But I also consider him as a very forceful leader. He has taken strong positions on many controversial issues through the years. Certainly his judgment on the Vietnam war and the rightness of his point of view on that issue is apparent to all now.

As Senator MANSFIELD approaches his retirement, I would like to pay my own personal tribute to him for his qualities of leadership and fairness that inspire those who work with him. Under his leadership we have moved forward with the greatest of speed, feeling that we are being dealt with as human beings and as peers, but also accepting leadership because of the qualities that Senator MANSFIELD exerts.

I pay great tribute to him and doubt that in our experience in the Senate, any of us will ever have the opportunity again to serve under a leader who could surpass the qualities of leadership, inspiration, and guidance that Senator MANSFIELD has provided to his distinguished colleagues.

Mr. President, I ask unanimous consent that an article dated Thursday, June 10, 1976, in the Christian Science Monitor be printed in the RECORD.

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

MANSFIELD: A LOW-KEY ROCK OF INTEGRITY
(By Louise Sweeney)

WASHINGTON.—When Mike Mansfield closes the double mahogany doors of the Senate Majority Leader's office for the last time, it will be with a soft click and not a slam. That's the style of the quiet man from Montana who is retiring after 34 years in Congress.

To give an idea of how quietly he treads the corridors of power, there is this story, which Republican Sen. Charles McC. Mathias of Maryland tells. It's about how Mr. Mansfield stirred some bipartisan political cream into a breakfast with the President: