eleven in the next. This could only happen if the October delivery date fell on a Monday public holiday and our current calendar has no public holidays on October 3rd.

I introduce this legislation with the belief that wherever possible the law ought to reflect our concern for those who receive, need, and have earned federal benefits by virtue of their long work and service to the nation. The 1976 administrative ruling is just that; a ruling that can be easily rewritten and erased. A law cannot be. If we are indeed serious about making this ruling permanent, we, the elected representatives of the people, should give this regulation the full force of law. In cases like this, I strongly feel that we should not leave it up to the unelected bureaucrats to change regulations as they see fit. It is Congress that is accountable to the people, and therefore we should take the lead in setting the policies that so profoundly affect the lives of millions of people in this country.

Lastly, let me state that as you well know we are not dealing here with government gifts; these entitlements are earned benefits which ought to be promptly delivered to those who labored to earn them so they can be used for the necessities of life. Without an additional appropriation of funds, we can expedite this, our responsibility.

I urge you to consider this modest, yet important proposal.

Thank you very much.

SENATE—*Wednesday, August 3, 1977*

(Legislative day of Tuesday, July 19, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

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

Eternal God, who art our refuge and strength, we commit our Nation and ourselves to Thee. Thou hast written Thy law in our hearts and we ask for grace to live by it. Light up our daily work by Thy presence, so that even while we work we may be aware of Thee, monitoring our actions, guiding our decisions. Midst all the busy shuttle of legislation, shaped here into the fabric of law for the Republic, save us from being so enmeshed in the immediate mechanics of our day as to lose the vision of the ultimate kingdom whose builder and maker Thou art. "O Thou who changest not" abide with us now and forever. 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., August 3, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, August 2, 1977, be approved.

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

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

The ACTING PRESIDENT pro tempore. 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.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

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

The clerk will report the nominations.

Mr. BAKER. Mr. President, will the clerk withhold for just a moment? Reserving the right to object—and I will not object—I will advise the majority leader that there is no objection to proceeding to executive session and that all of the nominations appearing on pages 2 and 3 of the Executive Calendar for today have been cleared for consideration and confirmation on this side.

DISTRICT OF COLUMBIA COURT OF APPEALS

The second assistant legislative clerk read the nomination of John Maxwell Ferren, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years.

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

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nominations of Benjamin H. Read, of the District of Columbia, to be Deputy Under Secretary of State; Rodney O'Gliasain Kennedy-Minott, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden; Andrew Ivy Killgore, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar; and William Bowdoin Jones, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the nominations were confirmed en bloc.

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

Mr. ROBERT C. BYRD. I so move.

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

The motion to lay on the table was agreed to.

AMBASSADOR

The second assistant legislative clerk read the nomination of Peter R. Rosenblatt, of New York, for the rank of ambassador during the tenure of his service as personal representative of the President to conduct negotiations on the future political status of the Trust Territory of the Pacific Islands.

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

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

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

NUCLEAR REGULATORY COMMISSION

The second assistant legislative clerk read the nomination of Joseph Mallam Hendrie, of New York, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The second assistant legislative clerk read the nomination of Peter Amory Bradford, of Maine, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1982.

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

NATIONAL MEDIATION BOARD

The second assistant legislative clerk read the nomination of Robert Oberndoerfer Harris, of the District of Columbia, to be a member of the National Mediation Board for the term expiring July 1, 1980.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Patricia Albjerg Graham, of Massachusetts, to be Director of the National Institute of Education.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk proceeded to read various nominations placed on the Secretary's desk in the Diplomatic and Foreign Service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that these nominations be considered and confirmed en bloc.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider the votes by which the various nominations were confirmed today, and also the nomination which was confirmed on yesterday on which a motion to reconsider was intentionally not entered yesterday.

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

Mr. ROBERT C. BYRD. Mr. President, I so move.

Mr. BAKER. Mr. President, 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 President be immediately notified of the confirmation of all the nominations.

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

LEGISLATIVE SESSION

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

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

COMMITTEE MEETINGS

LABOR SUBCOMMITTEE OF THE COMMITTEE ON HUMAN RESOURCES

Mr. ROBERT. C. BYRD. Mr. President, I ask unanimous consent that the Labor Subcommittee of the Committee on Human Resources be permitted to meet during the session of the Senate today to consider minimum wage legislation.

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

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services may be authorized to meet during the session of the Senate today on legislation dealing with unionization in the military.

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

ORDER OF BUSINESS

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

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr BAKER. Mr. President, I yield such time from my time under the standing order as the majority leader may require.

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

I understand the distinguished Senator from Alabama (Mr. SPARKMAN) has a matter which he wishes to take up before we go into executive session to deal with the treaty.

I yield to the Senator from Alabama such time as he may require.

Mr. SPARKMAN. Mr President, I thank the majority leader.

PEACE CORPS ACT

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1235.

The ACTING PRESIDENT pro tempore (Mr. LEAHY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1235) to further amend the Peace Corps Act, as follows:

Strike out all after the enacting clause, and insert: That (a) section 3(b) of the Peace Corps Act is amended by inserting "and for the fiscal year 1978 not to exceed $81,000,000" immediately after "$81,000,000,".

(b) Section 3(c) of such Act is amended—

(1) by striking out "and fiscal year 1977" and inserting in lieu thereof "for fiscal year 1977, and for fiscal year 1978 by subsection (b)"; and

(2) by striking out "for fiscal year 1977" and inserting in lieu thereof "for fiscal years 1977 and 1978".

Amend the title so as to read: "An Act to authorize appropriations for the Peace Corps for fiscal year 1978."

Mr. SPARKMAN. Mr. President, like many other Federal programs under this new administration, the Peace Corps is undergoing an intensive period of reevaluation and revitalization. However, during the recent authorization process it has been somewhat unclear as to how much the Peace Corps would need to carry out its programs.

Originally, the Office of Management and Budget—OMB—approved a $74.8 million budget for the Peace Corps. This sum would have financed the support and activities of an estimated 6,370 volunteers and trainees in 63 nations.

On the day of the full committee markup of the Peace Corps authorization bill, S. 1235—May 12, 1977—the Committee on Foreign Relations was notified informally that OMB and the President had approved a revised Peace Corps budget of $84.8 million for fiscal year 1978. The committee granted the administration its revised request and provided a $1 million authorization to finance increases in salary, retirement, or other employee benefits for fiscal year 1978.

On June 1, 1977, the House passed its version of the Peace Corps authorization bill. This legislation authorized $81 million for the Peace Corps in fiscal year 1978 plus such sums as may be necessary for salary, pay, retirement, or other employee benefits.

Since the passage of the House bill, a compromise has been reached which will eliminate the necessity for a conference between the House and Senate and will provide the Peace Corps with sufficient authority to effectively carry out its programs for fiscal year 1978.

UP AMENDMENT NO. 708

I, therefore, move that the Senate concur in the House amendment to the text of the bill (S. 1235), to further amend the Peace Corps Act, with an amendment, which I send to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 708.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That so much of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) as precedes the first proviso is amended to read as follows: "There are authorized to be appropriated for the Fiscal Year 1978 not to exceed $82,900,000 to carry out the purposes of this Act."

SEC. 2. Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended to read as follows:

"(c) In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this Act, there are authorized to be appropriated for the Fiscal Year 1978, $1,000,000 for increases in salary, pay, retirement, or other employee benefits authorized by law.".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1977.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate agree to the House

amendment to the title of the bill (S. 1235).

The ACTING PRESIDENT pro tempore. The question is on agreeing to the House amendment to the title of the bill.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield back to the distinguished minority leader the remaining time and again thank him.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the majority leader.

THE NORTH ATLANTIC ALLIANCE

Mr. BAKER. Mr. President, in this morning's Washington Post is a column by columnists Rowland Evans and Robert Novak entitled "Conceding Defeat in Europe."

Mr. President, the North Atlantic Alliance has been a cornerstone of our national security and of the security of the free world for almost three decades. We know that the NATO alliance will be as effective and as cohesive as our will and our determination, as well as that of our allies, to maintain it. The fact that the American people recognize NATO's importance and overwhelmingly support NATO gives me great hope that our security can be properly maintained.

The Evans and Novak column of August 3 quotes National Security Advisor Zbigniew Brzezinski:

> It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a "stalemate" strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression.
>
> We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy.

This quote purportedly comes from a meeting with Vice President MONDALE, CIA Director Stansfield Turner, Chief Disarmanent Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan, and Joint Chiefs of Staff Chairman Gen. George Brown and expresses the consensus of that group. If Zbigniew Brzezinski has been accurately quoted, then he has expressed views for himself and his colleagues at a Security Coordinating Committee meeting which if they ever become U.S. NATO policy, would have a devastating effect on the alliance.

The quotes attributed to Brzezinski convey a completely erroneous view of domestic suppert for deterrence through NATO. I might add that to the extent that the National Security Adviser judges current commitments to be inadequate, he should convey his opinion to the President, who in turn should inform the Congress and the American people. We, as a nation, are committed with our allies to do what is necessary to deter aggression.

The quote attributed to Brzezinski states a completely unacceptable view of what an adequate deterrent represents. An adequate deterrent is not under any circumstances "falling back until we achieve a stalemate," and then relying on intangible, and I might add possibly illusionary, support such as the U.N. or world opinion.

The Evans and Novak column greatly disturbs me. The quotes attributed to Brzezinski fly in the face of previous administration assertions of support for NATO, and as such they must raise serious concerns in the minds of our allies.

I echo the administration's earlier statements when I state my view that the only acceptable NATO strategy is one that can be fully conveyed, understood, and accepted by our allies. The quotes attributed to Brzezinski represent no such strategy.

During last fall's campaign, the Ford administration was criticized for not being open and candid with our allies and for not having sufficient faith in the future and our ability to compete with other opposing ideologies. The quotes attributed to Brzezinski seem to exhibit the faults attributed to others during the campaign.

This matter is of serious concern. It is important that the record be complete, and I call upon the President and his National Security Advisor to make it so. I also ask unanimous consent that the Evans and Novak column appearing in the Washington Post of August 3 be printed in the RECORD.

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

CONCEDING DEFEAT IN EUROPE

(By Rowland Evans and Robert Novak)

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense spending, which these advisers say would provoke Moscow and divide Washington.

PRM-10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admitting its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's national security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28-29 meetings of his Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 per cent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences" — world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

"Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to pay if the Germans learned what was happening.

All this follows the script of the June 20 draft of PRM-10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Weser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM-10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.-NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmament or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reactions by Western Europe "could be significantly softened . . . if the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

* * * Arms Limitation Talks] or MBFR [Mutual Balanced Force Reductions]."

PRM-10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble, in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicitly accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "political environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

Mr. BAKER. Mr. President, I have no requirement for the remainder of my time under the standing order and I yield it back.

ORDER THAT NO ROLLCALL VOTES OCCUR BEFORE 12 NOON TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur today before the hour of 12 o'clock noon.

I make this request because the conferees on the clean air measure were up until after 2 o'clock this morning working on that measure and I think obviously the Senate owes consideration to those conferees.

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

EXECUTIVE SESSION—AGREEMENT WITH CANADA CONCERNING TRANSIT PIPELINES

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now go into executive session and proceed to the consideration of Executive F, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

The Senate, as in Committee of the Whole, proceeded to consider Executive F, 95th Congress, 1st session, the agreement with Canada concerning transit pipelines, which was read the second time as follows:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONCERNING TRANSIT PIPELINES

The Government of the United States of America and the Government of Canada,

Believing that pipelines can be an efficient economical and safe means of transporting hydrocarbons from producing areas to consumers, in both the United States and Canada;

Noting the number of hydrocarbon pipelines which now connect the United States and Canada and the important service which they render in transporting hydrocarbons to consumers in both countries; and

Convinced that measures to ensure the uninterrupted transmission by pipeline through the territory of one Party of hydrocarbons not originating in the territory of that Party, for delivery to the territory of the other Party, are the proper subject of an agreement between the two Governments;

Have agreed as follows:

ARTICLE I

For the purpose of this Agreement:

(a) "Transit Pipeline" means a pipeline or any part thereof including pipe, valves and other appurtenances attached to pipe, compressor or pumping units, metering stations, regulator stations, delivery stations, loading and unloading facilities, storage facilities, tanks, fabricated assemblies, reservoirs, racks, and all real and personal property and works connected therewith, used for the transmission of hydrocarbons in transit. "Transit Pipeline" shall not include any portion of a pipeline system not used for the transmission of hydrocarbons in transit.

(b) "Hydrocarbons" means any chemical compounds composed primarily of carbon and hydrogen which are recovered from a natural reservoir in a solid, semi-solid, liquid or gaseous state, including crude oil, natural gas, natural gas liquids and bitumen, and their derivative products resulting from their production, processing or refining. In addition, "hydrocarbons" includes coal and feedstocks derived from crude oil, natural gas, natural gas liquids or coal used for the production of petro-chemicals.

(c) "Hydrocarbons in transit" means hydrocarbons transmitted in a "Transit Pipeline" located within the territory of one Party, which hydrocarbons do not originate in the territory of that Party, for delivery to, or storage before delivery to, the territory of the other Party.

ARTICLE II

1. No public authority in the territory of either Party shall institute any measures, other than those provided for in Article V, which are intended to, or which would have the effect of, impeding, diverting, redirecting or interfering with in any way the transmission of hydrocarbons in transit.

2. The provisions of paragraph 1 of this Article apply:

(a) In the case of Transit Pipelines carrying exclusively hydrocarbons in transit, to such volumes as may be transmitted to the Party of destination in the Transit Pipeline;

(b) In the case of Transit Pipelines in operation at the time of entry into force of this Agreement not carrying exclusively hydrocarbons in transit, to the average daily volume of hydrocarbons in transit transmitted to the Party of destination during the 12 month period immediately prior to the imposition of any measures described in paragraph 1;

(c) In the case of Transit Pipelines which come into operation subsequent to the entry into force of this Agreement not carrying exclusively hydrocarbons in transit, to such volumes of hydrocarbons in transit as may be authorized by the appropriate regulatory bodies; or

(d) To such other volumes of hydrocarbons in transit as may be agreed upon subsequently by the Parties.

3. Each Party undertakes to facilitate the expeditious issuance of such permits, licenses, or other authorizations as may be required from time to time for the import into, or export from, its territory through a Transit Pipeline of hydrocarbons in transit.

ARTICLE III

1. No public authority in the territory of either Party shall impose any fee, duty, tax or other monetary charge, either directly or indirectly, on or for the use of any Transit Pipeline unless such fee, duty, tax or other monetary charge would also be applicable to or for the use of similar pipelines located within the jurisdiction of that public authority.

2. No public authority in the territory of either Party shall impose upon hydrocarbons in transit any import, export or transit fee, duty, tax or other monetary charge. This paragraph shall not preclude the inclusion of hydrocarbon throughput as a factor in the calculation of taxes referred to in paragraph 1.

ARTICLE IV

1. Notwithstanding the provisions of Article II and paragraph 2 of Article III, a Transit Pipeline and the transmission of hydrocarbons through a Transit Pipeline shall be subject to regulations by the appropriate governmental authorities having jurisdiction over such Transit Pipeline in the same manner as for any other pipelines or the transmission of hydrocarbons by pipeline subject to the authority of such governmental authorities with respect to such matters as the following:

(a) Pipeline safety and technical pipeline construction and operation standards;

(b) environmental protection;

(c) rates, tolls, tariffs and financial regulations relating to pipelines;

(d) reporting requirements, statistical and financial information concerning pipeline operations and information concerning valuation of pipeline properties.

2. All regulations, requirements, terms and conditions imposed under paragraph 1 shall be just and reasonable, and shall always, under substantially similar circumstances with respect to all hydrocarbons transmitted in similar pipelines, other than intra-provincial and intra-state pipelines, be applied equally to all persons and in the same manner.

ARTICLE V

1. In the event of an actual or threatened natural disaster, an operating emergency, or other demonstrable need temporarily to reduce or stop for safety or technical reasons the normal operation of a Transit Pipeline, the flow of hydrocarbons through such Transit Pipeline may be temporarily reduced or stopped in the interest of sound pipeline management and operational efficiency by or with the approval of the appropriate regulatory authorities of the Party in whose territory such disaster, emergency or other demonstrable need occurs.

2. Whenever a temporary reduction of the flow of hydrocarbons through a Transit Pipeline occurs as provided in paragraph 1:

(a) In the case of a Transit Pipeline carrying exclusively hydrocarbons in transit, the Party for whose such hydrocarbons are intended shall be entitled to receive the total amount of the reduced flow of hydrocarbons,

(b) In the case of a Transit Pipeline not carrying exclusively hydrocarbons in transit, each Party shall be entitled to receive downstream of the point of interruption a proportion of the reduced flow of hydrocarbons equal to the proportion of its net inputs to the total inputs to the Transit Pipeline made upstream of the point of interruption. If the two parties are able collectively to make inputs to the Transit Pipeline upstream of the point of interruption, for delivery downstream of the point of interruption, of a volume of hydrocarbons which exceeds the temporarily reduced capacity of such Transit Pipeline, each Party shall be entitled to transmit through such Transit Pipeline a proportion of the total reduced capacity equal to its authorized share of the flow of hydrocarbons through such Transit Pipeline prior to the reduction. If no share has been authorized, specified or agreed upon pursuant to Article II, paragraph 2, the share of the Parties in the reduced flow of hydrocarbons shall be in proportion to the share of each Party's net inputs to the total flow of hydrocarbons through such Transit Pipeline during the 30 day period immediately preceding the reduction.

3. The Party in whose territory the disaster, emergency or other demonstrable need occurs resulting in a temporary reduction or stoppage of the flow of hydrocarbons shall not unnecessarily delay or cause delay in the expeditious restoration of normal pipeline operations.

ARTICLE VI

Nothing in this Agreement shall be considered as waiving the right of either Party to withhold consent, or to grant consent subject to such terms and conditions as it may establish consistent with the principles of uninterrupted transmission and of nondiscrimination reflected in this Agreement, for the construction and operation on its territory of any Transit Pipeline construction of which commences subsequent to the entry into force of this Agreement, or to determine the route within its territory of such a Transit Pipeline.

ARTICLE VII

The Parties may, by mutual agreement, conclude a protocol or protocols to this Agreement concerning the application of this Agreement to a specific pipeline or pipelines.

ARTICLE VIII

The Parties may, by mutual agreement, amend this Agreement at any time.

ARTICLE IX

1. Any dispute between the Parties regarding the interpretation, application or operation of this Agreement shall, so far as possible, be settled by negotiation between them.

2. Any such dispute which is not settled by negotiation shall be submitted to arbitration at the request of either Party. Unless the Parties agree on a different procedure within a period of sixty days from the date of receipt by either Party from the other of a notice through diplomatic channels requesting arbitration of the dispute, the arbitration shall take place in accordance with the following provisions. Each Party shall nominate an arbitrator within a further period of sixty days. The two arbitrators nominated by the Parties shall within a further

period of sixty days appoint a third arbitrator. If either Party fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, either Party may request the President of the International Court of Justice (or, if the President is a national of either Party, the member of the Court ranking next in order of precedence who is not a national of either Party) to appoint such arbitrator. The third arbitrator shall not be a national of either Party, shall act as Chairman and shall determine where the arbitration shall be held.

3. The arbitrators appointed under the preceding paragraph shall decide any dispute, including appropriate remedies, by majority. Their decision shall be binding on the Parties.

4. The costs of any arbitration shall be shared equally between the Parties.

ARTICLE X

1. This Agreement is subject to ratification. Instruments of Ratification shall be exchanged at Ottawa.

2. This Agreement shall enter into force on the first day of the month following the month in which Instruments of Ratification are exchanged.

3. This Agreement shall remain in force for an initial period of thirty-five years. It may be terminated at the end of the initial thirty-five year period by either Party giving written notice to the other Party, not less than ten years prior to the end of such initial period, of its intention to terminate this Agreement. If neither Party has given such notice of termination, this Agreement will thereafter continue in force automatically until ten years after either Party has given written notice to the other Party of its intention to terminate the Agreement.

IN WITNESS WHEREOF the undersigned representatives, duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Washington in the English and French languages, both versions being equally authentic, this twenty-eighth day of January 1977.

For the Government of the United States of America:

_____ _____.

For the Government of Canada:

_____ _____.

The ACTING PRESIDENT pro tempore. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification which the clerk will state.

Mr. STEVENS. Mr. President, I do have a reservation to offer. I assume that will still be in order.

The ACTING PRESIDENT pro tempore. The reservation will come after the presentation of the resolution of ratification.

Mr. STEVENS. I thank the Chair.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of Canada Concerning Transit Pipelines, signed at Washington on January 28, 1977 (Ex. F. 95-1).

The ACTING PRESIDENT pro tempore. The time for debate on the resolution of ratification is limited to 2 hours, to be equally divided and controlled by the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE), with debate on any amendment, reservation, understanding, or declaration thereto limited to 1 hour, with debate on any amendment in the second degree or an amendment to a reservation, understanding, or declaration limited to 30 minutes, and with debate on any debatable motion, appeal from the ruling of the Chair, or point of order in connection with the resolution of ratification limited to 20 minutes.

Who yields time?

Mr. SPARKMAN. I yield myself 10 minutes.

Mr. President, the Committee on Foreign Relations has carefully considered the agreemnt with Canada concerning transit pipelines, signed last January 28, and recommends that the Senate give its advice and consent to its ratification.

Its purpose is limited and simple: It provides government to government reciprocal assurances that pipelines carrying hydrocarbons such as oil, natural gas, petroleum products, coal slurries, or even petrochemical feedstocks owned by one country across the territory of the other nation will be free from interruptions in flow and from discriminatory taxation. These two assurances apply to existing pipelines and those which might be constructed in the future.

As was pointed out by several witnesses, including Senator STEVENS, other treaties, agreements or protocols to this treaty might be needed before future pipelines are constructed, but all witnesses, including the Senator from Alaska, agreed that the Senate should give its advice and consent to the pending treaty.

For background purposes, Members will be interested to know that this agreement is in response to a requirement in the Trans-Alaska Pipeline Authorization Act (P.L. 93-153) that the President determine the willingness of the Canadian Government to permit construction of pipelines across Canada to carry Alaska North Slope oil and gas to the lower 48 States. The President was also asked to identify the terms and conditions which might apply to the operations of such pipelines and to determine the need for intergovernmental agreements for this purpose. In 1973, Prime Minister Trudeau said Canada was willing to help move North Slope natural gas through a trans-Canadian pipeline if Canada received assurances regarding its oil and gas which transit the United States. On the basis of the congressional mandate and in response to the Prime Minister's statement, the Department of State began negotiations in 1974 which led to this agreement.

It became clear early in the negotiations that Canada was not prepared to agree in advance to any specific pipeline project. Neither Canada nor the United States has reached a final decision whether a trans-Canadian pipeline is in its own best interests, but it should be emphasized that there are four pipelines now serving the two nations which would benefit from the agreement, and there are numerous applications pending to build others.

Articles II, III, IV, and V of the agreement provide for regulation of both construction and operation of transit pipelines by the same appropriate government authorities who have jurisdiction over similar, nontransit pipelines. The treaty prevents those same authorities from exercising their jurisdiction in a manner which discriminates against transit pipelines and requires that all measures be just and reasonable. In summary then, it can be said that the agreement provides a framework within which the United States and Canada can cooperate on future projects beneficial to one or the other or both over the agreement's 35-year term. It is expected that Canada will ratify the agreement shortly after it is ratified by the United States.

Mr. President, I ask unanimous consent that a section-by-section analysis of the agreement be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

The Preamble states that a number of pipelines provide an economic and safe means of transporting hydrocarbons from producing areas in either Canada or the United States to consumers in both, and therefore are a proper subject for an agreement between the two countries which will ensure the uninterrupted transmission by pipeline of those hydrocarbons.

Article I defines a "transit pipeline," "hydrocarbons," and "hydrocarbons in transit." The first includes all parts, such as valves, pumping and delivery stations, storage facilities, and all real and personal property connected with the system. Hydrocarbons include chemical compounds composed primarily of carbon and hydrogen in a solid, semi-solid, liquid or gaseous state, including coal, crude oil, natural gases, refined products and feedstocks derived from crude oil. Hydrocarbons in transit means those located in the territory of one country being delivered to the other.

Article II prohibits public authorities in either country from taking any measures which would impede, divert, redirect or interfere with the transmission of hydrocarbons in transit. It also provides that each country will facilitate the expeditious issuance of permits, licenses and other authorizations needed for the import or export through its territory of hydrocarbons through a transit pipeline.

Article III deals with non-discriminatory treatment. It would insure that public authorities in both countries would not impose fees, duties, taxes or other monetary charges on a transit pipeline which would not be placed on a similar pipeline not transiting the national border. (According to the Administration, during the negotiations, considerable attention was focused on the question of establishing an objective standard against which taxes on pipelines could be measured for their discriminatory effect. Article III therefore establishes as the basic standard of comparison similar pipelines within taxing governmental jurisdictions.)

Article IV grants to each government jurisdiction over transit pipelines with respect to such matters as: pipeline safety and technical construction and operations standards; environmental protection; rates, tolls, tariffs and financial regulations relating to pipelines; reporting requirements, statistical and financial information concerning pipeline operations, and information concerning valuation of pipeline properties. It is provided, however, that all such regulations, require-

ments, terms and conditions imposed "shall be just and reasonable" and "be applied equally to all persons and in the same manner."

Article V contains provisions calling for the equitable sharing of pipeline capacity on a pre-determined basis "in the event of an actual or threatened natural disaster, an operating emergency, or other demonstrable need temporarily to reduce or stop for safety or technical reasons the normal operation of a Transit Pipeline." Article V also provides that the country "in whose territory the disaster, emergency or other demonstrable need occurs resulting in a temporary reduction or stoppage of the flow of hydrocarbons shall not unnecessarily delay or cause delay in the expeditious restoration of normal pipeline operations."

Article VI preserves the right of each country to withhold or grant consent for the construction and operation on its territory of any transit pipeline construction which commences subsequent to the entry into force of the Treaty, or to determine the route within its territory of such a transit pipeline.

Article VII provides that the two countries may, by mutual agreement, conclude protocols concerning the application of this treaty to a specific pipeline or pipelines.

Article VIII permits the two countries to amend the treaty at any time.

Article IX provides that any dispute regarding the interpretation, application or operation of the treaty shall, so far as possible, be settled by negotiation between the two parties. If a dispute cannot be settled by negotiation, it must be submitted to arbitration at the request of either party. The decision of the arbitrators will be binding on both parties and the costs of arbitration are to be shared equally.

Article X provides that the treaty is to remain in force for an initial period of 35 years, after which it may be terminated by either party giving written notice, not less than ten years prior to the end of such initial period, of its intention to terminate the treaty. If neither party has given such notice, the treaty will thereafter continue in force automatically until ten years after either party has given its notice to terminate.

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

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself, from Senator CASE's time, such time as I may need.

I shall speak today as a supporter of the agreement concerning transit pipelines between the United States and Canada. However, my main purpose today is to clarify the relationship between the agreement and the selection of a transportation system to deliver Alaskan natural gas to the lower 48 States pursuant to the Alaskan Natural Gas Transportation Act (Public Law 94-586) and to discuss why the ratification of the agreement does not pave the way for the selection of a trans-Canada pipeline.

There are two systems which are currently under consideration to deliver Alaskan natural gas to domestic markets. One is the Trans-Alaskan—El Paso—system which will be constructed entirely within U.S. territory. The second is the Alcan system which proposes to deliver the gas by pipeline through Canada.

It is important to recognize that the agreement does not prejudge the decision of whether a pipeline should be constructed across Canada to deliver Alaskan natural gas to markets in the lower 48 States, and does not resolve the questions relating to a trans-Canada pipeline.

The limited scope of the agreement is made explicit in the report of the Senate Foreign Relations Committee.

Let me state parenthetically, Mr. President, that the distinguished chairman of the committee, a long-time friend of Alaska, did permit us to participate in the hearing although we were not members of the committee, and Alaskans are grateful to him for the opportunity to clarify the meaning of this treaty.

I quote from the report of the Committee on Foreign Relations:

It became clear early in the treaty negotiations that the Government of Canada was not prepared to conclude an arrangement which granted advance approval to a specific pipeline project. Consequently, the Agreement was drafted without reference to any of the three proposals, and in no way pre-judges the decision of whether an Alaska gas pipeline should be constructed through Canada. Many issues must be considered in connection with any such decision. These include such matters as the financing of a pipeline; settlement and payment of native claims; enactment of expediting provisions, such as limitation on judicial review and prompt issuance of permits and authorizations; tariff standards and rates; level of provincial taxation; Canadian requirements on labor and materials; and any terms and conditions which Canada would apply to the pipeline.

Some of these factors must be resolved in additional agreements or protocols. If such supplemental protocols or agreements require commitments on the part of the U.S. Government, they will also require ratification by the U.S. Senate.

The quotation, I repeat, is from Senate Executive Report No. 95-5, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

These factors have a pronounced effect on the timing and cost of a pipeline. Until all these questions are resolved, it is not possible to rationally evaluate the costs and benefits of a pipeline through Canada and to designate it to deliver Alaskan natural gas to domestic markets.

The decision concerning the selection of a transportation system to deliver Alaskan natural gas is still being deliberated. Recent events clearly will have a strong bearing on the selection of a system. These events underscore that the questions relating to a pipeline through Canada are not resolved, and additionally, raise questions concerning the applicability of the nondiscriminatory provisions of the agreement.

The NEB has recommended the approval of a modified Alcan system to deliver Alaskan natural gas to the lower 48 States. This is essentially a new proposal for the joint delivery of Alaskan and Canadian gas. The Alcan system as recommended by the NEB requires rerouting about 480 miles of the Alcan pipeline and construction of Dempster lateral of approximately 460 miles to deliver Mackenzie Delta gas to Canadian markets.

This system is undefined and unstudied. Because it is essentially a new proposal, only a portion of the previous analyses by the Federal Power Commission and interagency task force are relevant for evaluating its costs and benefits. Assessing the flexibility, gas delivery costs, environmental impacts, and overall benefits of this alternative system entails virtually new studies.

Most significantly, the NEB approved the modified Alcan system on the condition, among others, that the pipeline companies commit up to $200 million to cover indirect socioeconomic costs of the pipeline. This condition raises very important questions concerning the application of article III of the agreement which prohibits the imposition of any direct or indirect tax or other monetary charge on or for the use of a transit pipeline unless it is applicable to other similar pipelines.

Questions concerning the application of articles III and VII to the $200 million charge, and other potential charges against the pipeline, such as for the settlement of native claims, were posed to the Department of State.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter sent to the Secretary of State, dated July 22, 1977, and the reply thereto dated July 28, 1977.

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

U.S. SENATE, OFFICE OF THE
ASSISTANT MINORITY LEADER,
Washington, D.C., July 22, 1977.

Hon. CYRUS VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: As you know, the Agreement between the United States and Canada Concerning Transit Pipelines is being considered by the Senate. The Senate will also shortly be considering the selection of a transportation system to deliver Alaskan natural gas to the lower 48 states pursuant to the Alaska Natural Gas Transportation Act (P.L. 94-586). One of the proposed pipelines through Canada has received conditional approval by the National Energy Board of Canada. The NEB has approved a modified Alcan system on the condition, among others, that the pipeline companies agree to pay up to $200 million to cover the indirect socioeconomic costs of the pipeline.

The NEB decision raises the following very important questions concerning the relationship between the Agreement Concerning Transit Pipelines and the decision on the selection of a pipeline to deliver Alaskan natural gas:

1. Does the provision of Article III of the Agreement, which prohibits the imposition of any direct or indirect tax or other monetary charge, on/or for the use of a transit pipeline unless it is applicable to other similar pipelines, preclude the imposition by Canada of the $200 million charge?

2. If Article III does not preclude the imposition of such a charge, please specify the reason for your conclusion?

3. If the $200 million charge can be impose consistently with the Agreement, does this mean that Canada can impose other charges, such as to cover the payment of all or part of the cost of settling Canadian native claims?

4. If Article III does not preclude imposition of the $200 million charge and other charges, are other agreements being negotiated with Canada to establish a limit on the total cost that Canada can impose on the modified Alcan proposal approved by the NEB?

We would appreciate it if answers to these questions could be provided before Congress considers the Agreement Concerning Transit

Pipelines. At Senator Stevens' request, consideration of that Agreement has been delayed pending your reply. As we are certain you will realize, your response will have a major impact on the question of whether Senator Stevens and others should offer a reservation to prevent charges, such as the $200 million from being assessed against the modified Alcan pipeline, and to prevent the assessment of any part of the settlement of the Canadian native claims against a U.S. pipeline.

With best wishes,

Cordially,

JOHN SPARKMAN,
TED STEVENS,
U.S. Senators.

JULY 28, 1977.

Hon. TED STEVENS,
U.S. Senate.

DEAR SENATOR STEVENS: Secretary Vance has asked me to respond to your letter of July 22, concerning the United States-Canada Transit Pipeline Agreement and the transportation of Alaskan natural gas across Canada. I am sending a similar response to Senator Sparkman.

With regard to the relationship between Article III of the Agreement and the proposed $200 million charge to Alcan for indirect socio-economic costs, we have taken the position with the Canadians that Article III of the Agreement would preclude the imposition on the pipeline of the charge unless such a charge is applicable to similar pipelines in Canada. In raising this issue with the Government of Canada we have stressed that its resolution, and any other significant costs or uncertainties associated with the terms and conditions proposed by the NEB, will necessarily bear upon the President's decision.

We have also discussed the question of native claims with the Government of Canada. They have indicated that they do not regard the cost of settlement of native claims as being a cost of the type which should be assessed to the pipeline.

As Assistant Secretary Katz indicated during his testimony on the Agreement before the Senate Foreign Relations Committee on June 7, we do not believe that the Agreement necessarily resolves all of the questions related to a possible transit pipeline across Canada. A protocol or other inter-governmental arrangements may well be needed.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary
for Congressional Relations.

Mr. STEVENS. The Department of State takes the position that article III of the agreement is applicable to the $200 million charge and that the charge can only be imposed if it is applicable to similar pipelines. However, it is still an open question whether the agreement provides protection against the imposition of the $200 million charge, or other charges, because it has not yet been determined whether the 48-inch pipeline proposed by Alcan is similar to any other pipeline in Canada.

I will have some questions to address to the chairman of the committee concerning that matter. If the Alcan pipeline is similar to other pipelines, then presumably the imposition of the $200 million charge would violate the agreement since such a charge has not been imposed on other pipelines in Canada. It is ironic that the United States is faced with potential violations of the agreement each prior to its ratification. On the other hand, if there are no similar pipelines, and the Alcan pipeline is "unique," and the Alcan pipeline is argued to be unique, then the agreement does not logically preclude the imposition of the $200 million charge, or, for that matter, any other charge, such as for the settlement and payment of native claims or any other tax, that Canada decides it wants to impose, because clearly the agreement prohibits these charges unless they are imposed upon similar pipelines in the host country.

The Lysyk Commission was appointed by the Government of Canada to study the socioeconomic impacts of a pipeline on the settlement of native claims in the southern Yukon which the Alcan pipeline would traverse.

The Commission issued a unanimous report yesterday. The report concluded that a pipeline through the southern Yukon is acceptable under the following conditions, among others:

First. Construction over this route is deferred for 4 years until August 1, 1981;

Second. The pipeline companies contribute up to $200 million to a "Yukon Heritage Fund" to compensate for the socioeconomic costs of the pipeline; and

Third. The Government of Canada advance payment of $50 million on the settlement of native land claims.

I understand the interest from that fund would be used to train people in the southern Yukon area.

The uncertainties and costs to the United States of a pipeline through Canada are accentuated by this report. The purpose of the Alaska Natural Gas Transportation Act is to assure the expeditious construction of a pipeline and the earliest possible delivery of Alaskan natural gas to the lower 48 States. Deferral of construction of a pipeline to facilitate the settlement of implementation of native claims impedes the realization of this objective, which was sought by congressional enactment when we passed the Alaska Natural Gas Transportation Act.

The agreement in no way protects the United States from such delays, or other delays that would result from judicial action to defer construction for an even longer period. The Council of Yukon Indians has indicated its opposition to the Lysyk report and reaffirmed its position that deferral of construction for 7 to 10 years is necessary to achieve a just settlement and implementation of their land claims.

Notably, the report strongly supports the NEB recommendation that the pipeline companies commit to pay up to $200 million to compensate for the socioeconomic costs of the pipeline.

CONCLUSION

The agreement clearly does not resolve all the uncertainties and costs of the NEB proposal and does not address all the questions relating to a pipeline through Canada. What is apparent from recent events is how far the United States and Canada are from settling these issues. Thus, the timing of construction; the financing of the system, the level of taxation, the settlement and payment of native claims, the expansibility of the system, the tariff rates and standards; and the terms and conditions that will be applied, remain unresolved. These factors directly affect the timing and cost of the Alcan pipeline through Canada. In the absence of answers to all these questions, it is not possible to assess the costs and benefits of the Alcan system. What is clear, however, is that the modifications and conditions imposed by the NEB and Lysyk Commission can only increase the costs of the Alcan system because of such factors as higher capital costs; deferral of construction; the greater fuel usage; the prolonged deliverability period of the gas; the costs of new environmental and feasibility studies; the costs of various monitoring authorities; and the $220 million charge to cover the socioeconomic costs of the pipeline.

Mr. President, I understand the Lysyk Commission further recommended that the consumers of the United States repay the advance to be made by the Government of Canada in establishing this fund. I have not read the Lysyk report yet. It will be here this afternoon. I am certain that all Senators will want to study it before passing on the question of whether there should be an Alcan pipeline built through Canada.

A decision to approve a trans-Canada pipeline before resolving these issues places the United States in an undesirable negotiating position. Effectively, this means that the United States is placed in the position of accepting a trans-Canada pipeline at any cost.

That is what I want to warn the Senate about. If all sentiment is directed toward the Canadian line, and the proponents of the all-Alaska American line are disbanded and no longer have an effective team together to build an alternative system, we could well be put into the position that the only way to get the gas out of northern Alaska would be to go through Canada. Nothing would be worse, in my opinion, for the United States than to be placed in such a bargaining position.

Before the Alcan system can be approved, it is most critical to exhaustively delineate the factors affecting its cost and their magnitude, to determine to which charges the agreement is applicable, and to effectively limit the imposition of charges which are not prohibited by the agreement.

There is no justification for the United States to assume the risks of a pipeline through Canada when there exists a viable alternative—the trans-Alaska-El Paso—system, which can deliver the gas at the earlist possible date, at an economical price, in an environmentally acceptable manner, and can distribute the gas efficiently throughout the country.

Mr. President, at the time we settled the Alaskan Native land claims, a conscious decision was made by the U.S. Government and the government of my State that the settlement of those claims would not be imposed upon the consumers of the oil or the gas found in Prudhoe Bay. My State agreed to pay $500 million to the settlement, and the Federal Government agreed to pay $462.5 million to the settlement, all of which

was paid either from royalties to be derived by the State from the oil or gas, or, in the case of the Federal Government, from the general funds of the United States.

None of the charges of settling the Alaskan Native land claims were imposed, nor will they ever be imposed, directly upon the consumers of oil or gas from the North Slope.

The proposals which are before Canada would shift the burden of the cost of settling the Canadian native claims from the Canadian Government to the consumers of Alaska's natural gas.

This gas will already be very expensive. It will have to be transported over extremely long distances, and it comes from a very violent frontier area of our Nation. The costs associated with its production are horrendous. By the time it gets to the south 48 under any of these systems, it will probably be the most expensive domestic gas we have produced. To add to the cost of that gas any of the socioeconomc costs, including any portion of the settlement of the Canadian native claims, in my opinion would be unwise.

I assume that will be the position of the United States.

I have discussed this matter with the chairman of the committee.

Mr. President, I would like to offer a reservation to this treaty.

The ACTING PRESIDENT pro tempore. The reservation will be stated.

The legislative clerk read as follows:

RESERVATION

Except that no transit pipeline to carry gas from Prudhoe Bay across Canada to domestic markets in the Lower 48 states shall be approved by the United States without first receiving assurances from the Government of Canada, in an appropriate protocol or other inter-governmental arrangement which has been ratified by the United States Senate, that (1) no part of the cost of the settlement of Native land claims in Canada will be assessed against such transit pipeline and passed through to United States gas consumers; (2) no charge for compensation for the indirect socio-economic costs of the pipeline will be assessed against such transit pipeline and passed through to United States gas consumers, and (3) the Government of Canada will hold harmless American companies and gas consumers from any fee, duty, tax, or other monetary charge imposed by any governmental authority in contravention of this agreement.

Mr. STEVENS. Mr. President, this reservation would place upon this treaty the three items that I have just discussed at length: The question of the Canadian Native land claims settlement; the question of the compensation of socioeconomic costs as outlined by the NEB and the Lysyk commission report; and third, the question of any provincial fee, tax, duty or monetary charge imposed by any unit of the Canadian Government that would place a burden upon a pipeline through Canada directly or indirectly, requiring Canada, to hold the United States harmless on such action.

If I may direct a question to the chairman of the committee, it has been argued by people who are involved in this matter in my State that, because there are no 48-inch pipelines carrying gas in Canada at this time, the pipeline treaty would not be effective against or would not be effectively applied to this new pipeline. I have taken the position that that is not correct.

Again, I thank the chairman of our committee for joining me in sending a letter to the Secretary of State. My position has been that when this treaty talks about similar pipelines, it is talking about gas pipelines to transport gas on a commercial basis from the point of production to the consumer. It is not talking about size as an element of uniqueness. So, if there is a pipeline built through Canada to carry our gas, whether it is 40 inches, 42 inches, or 48 inches is immaterial; the question is whether it is similar in purpose and intent to the pipelines that are already being used in Canada.

I wonder if the chairman of the committee agrees with me on that. We are not talking about size in terms of uniqueness, we are talking about the purpose and intent for which the pipeline was constructed and the manner in which it is to be operated; that, if it is to be operated on a commercial carrier basis, it is similar to the gas pipelines operating on a similar basis that already exist in Canada. Would the Senator from Alabama agree with me in that regard, as chairman of our committee?

Mr. SPARKMAN. Mr. President, I say to the Senator from Alaska that I do agree with him. He will recall that he and I jointly signed a letter to the Secretary of State. I believe he mentioned that in his statement, and the letter from Doug Bennet, writing for the Secretary of State.

Mr. STEVENS. I have placed in the RECORD already both the letter to the Secretary of State and the response that was sent to the Senator from Alabama, as chairman of the committee, and to me from the Department of State.

Mr. SPARKMAN. I believe that what he has said accords with the intent expressed in the exchange of letters. Is that not right?

Mr. STEVENS. That is my understanding.

It is my further understanding that the State Department has indicated that the agreement would preclude the imposition on the pipeline of the charge unless such a charge is applicable to similar pipelines in Canada. They are speaking directly about the proposal to assess the $200 million charge that has been mentioned by both the NEB and the Lysyk Commission as a charge that should be placed against the Alcan pipeline solely.

It has been our position that that is not consistent with this treaty unless the charge is applied equally to all gas pipelines in the host country of Canada.

Mr. SASSER assumed the chair.

Mr. SPARKMAN. Does the Senator not understand that the purpose of what is said in these two letters is in accordance with that?

Mr. STEVENS. That is my understanding.

Mr. SPARKMAN. That is mine.

Mr. STEVENS. Under those circumstances, Mr. President, I further address the second question. That is on the question that Assistant Secretary Katz so completely responded to before the Senate Committee on Foreign Relations on June 7 of this year. Reference is made to them in the Senate Foreign Relations Committee report. This agreement does not resolve the matters related to a transit pipeline from Canada. It had no intention to do so as far as a specific pipeline is concerned. There are specific issues—financing of a pipeline, the settling of these Canadian native claims, the expediting of provisions such as anything limiting judicial review, as we have done and, as I have indicated repeatedly, I think Canada must do. It must assure us that we will not have prolonged delay in Canada from any kind of litigation arising out of either environmental or native claim problems that might delay the startup of this pipeline.

We have questions of the expansibility of a pipeline in the future, whether it could be looped in the future, tariff standards, and rates. We have the question of provincial taxation, which was discussed at length in the hearing of the Senate Foreign Relations Committee.

We have the additional question of the Canadian requirements on labor and materials. This will be some $10 billion of money to be repaid by the consumers of the United States. If this pipeline is to go through Canada, I think we have to have an assurance as to how many American laborers and on what terms and conditions they will be allowed to come into Canada to work in this pipeline. It is not covered by this agreement. That issue is not covered. I think it must be covered before any pipeline would go through Canada.

It is my understanding, from the statement that was made by the Senate Committee on Foreign Relations in its report and the statement of its distinguished chairman here today, that it is clearly recognized that these matters are not resolved. If they are to be resolved by protocols or agreement that will commit the United States, then they will be submitted to the Senate for ratification.

Is that the Senator's understanding, too?

Mr. SPARKMAN. The Senator has correctly stated it. There may be several items—he has mentioned a few of them there—that will have to be worked out in subsequent agreements, protocols, treaties, or whatever they might be.

Mr. STEVENS. I thank the Senator.

The last item in the reservation I have presented deals with the hold-harmless provision to the United States. In testimony before the Senate Foreign Relations Committee, Assistant Secretary Katz stated:

In Canada the Treaty does not have the same face as law of the land, so that if a province were to enact legislation that was inconsistant with an obligation undertaken by the treaty, there would not be the same judicial recourse which would be available in the United States. Nevertheless, as we have made repeatedly clear to the Government of Canada, and elsewhere, if there were such an act, we would hold the Government of Canada responsible for a violation of the International Agreement which resulted.

The last provision of the reservation that I have submitted would require the

Government of Canada to assure the United States that it has, in fact, taken a position that will hold the United States harmless, that it will absorb any costs, charges, or taxes imposed by Provinces which are not allowed by the agreement. I am sure the Senator is familiar with that testimony before the Foreign Relations Committee. I assume he agrees with me, in view of the statement made by Secretary Katz and the strong position that he indicated.

Again, let me quote what he told us:

Nevertheless, as we have made repeatedly clear to the Government of Canada, and elsewhere, if there were such an Act—

And he was referring to provincial legislation that might impose charges, taxes, or costs inconsistent with the treaty—

we would hold the Government of Canada responsible for a violation of the International Agreement which resulted.

I take the position that we should make clear, if and when we ever do approve a specific pipeline, that that is a hold-harmless agreement, that the Government of Canada will, in fact, be called upon to hold the United States and its citizens harmless if a Province were to enact such legislation.

Mr. President, I do not discuss this lightly because we know that in Canada at this very time people are discussing specific provincial taxes, discussing specific portions of the Canadian native land claim settlement, which should be assessed against the pipeline, which would go into the cost of the pipeline and become part of the rate base for consumers in the United States of natural gas from Canada.

I assume—I do not wish to presume, but I assume—the chairman of the Senate Foreign Relations Committee agrees with me that the statement of Assistant Secretary Katz can be taken as an indication of our Federal Government's policy that we would hold the Federal Government of Canada responsible if the Provinces of Canada did, in fact, violate this treaty.

Mr. SPARKMAN. I say to the Senator that is correct.

Mr. STEVENS. I thank the Senator.

Mr. President, because of our Canadian neighbors' National Government system under the Canadian-North American Act, which is not like our Constitution, and their federation is of a different political complex than ours, there are differences in our Governments and there are differences in the manner in which we proceed in the relationships between State and Federal Government in this country and the Provinces and the National Government in Canada.

I do not think anyone in the country knows or appreciates the Government of Canada and Canadians more than Alaskans. When I drive home I have to drive through Canada. No one else in this country has to drive 2,000 miles through a neighboring country to get home. We do.

Often when I fly home, I land in Canada on the way home.

My brother emigrated to Canada and lived there until he died.

I think we have great respect for one another, Alaskans and Canadians. But we know each other well.

One thing we have learned to do is to listen to one another. I have been urging our executive branch to listen to what is going on in Canada. There are conditions being discussed. There are conditions being recommended by the National Energy Board which are not consistent with this agreement.

We have repeated assurances that those conditions are not being agreed to because they are not consistent with this agreement. At least, they would not be agreed to without submitting to the Congress, specifically to the Senate, international agreements or protocols to this treaty, which would give the Senate a chance to pass on these serious policy issues and to determine whether or not these costs or charges or taxes should be assumed by the consumers in the United States.

Two of the conditions I have not discussed yet. They are not involved in this treaty, nor have they yet been involved directly in the Canadian negotiations, although I think they have been mentioned in press reports.

Those two conditions are, one, the potential cost overruns for a pipeline through Canada. Those cost overruns are the most excessive in terms of the review of all three proposals. The chances for cost overruns exceeding 100 percent are very great. We have not seen any official pronouncement from the Government of Canada, but have heard the Canadian Government will seek a U.S. guarantee that those cost overruns, will, in fact, be met by the proponents of a gas pipeline through Canada.

I need not remind the Senate of the last time we tried to guarantee any part of the borrowings of a private company—that was the Lockheed issue, and it did not involve billions of dollars. It involved hundreds of millions, but it was not in the billions of dollars figures that must be involved in a pipeline through Canada.

Second, the NEB and others in Canada have discussed the question of the all-events tariff, which would mean the consumers of the United States would have to agree to pay for gas from Alaska, whether it reached the south 48 or not.

The Canadian National Energy Board has taken a position that only if an all-events tariff is put into effect by a pipeline through Canada should the Government of Canada approve a pipeline carrying Alaska's gas through Canada.

An all-events tariff has never yet been imposed by any portion of the Federal Government upon any consumer in the United States. I think it is incumbent upon the executive branch and those who are negotiating with the Canadians to tell the Canadians loud and clear, that we shall never impose an all-events tariff upon our consumers. It is not necessary.

Through the financing mechanisms of this country, we can build a pipeline to deliver this gas, which is vitally needed by our country, to our consumers without imposing upon them directly the risks associated with the development of this pipeline.

We are still a free enterprise country, Mr. President. To impose the Federal Government in either of the areas of the guarantee of the cost overruns or in the imposition of an all-events tariff would, in fact, he such a vital change in our economic structure that I think it would take a very long time to convince Congress—if anyone could ever convince the Congress—that that would be necessary.

Alaska's interest in this is obvious. The gas will be produced with the oil. I think Americans should know we cannot keep the gas in the ground and produce the oil.

We can produce the oil and the gas and reinject the gas, but, if we do that, the ultimate cost to the consumers will involve processing the gas twice. It will involve producing it once with the oil, the cost of reinjecting it, and then the cost of trying to recover it the second time.

There is no assurance in the structure we have on the North Slope that reinjected gas could be totally recovered.

Mr. President, I am grateful to the distinguished chairman of the Foreign Relations Committee for not only his courtesy on the day we had the hearing, but also for his patience in awaiting with me the response from the Department of State, and for his answers here today which assure me, on the position I have taken with my constituents, that the reservations that were requested to this treaty are not necessary at this time.

They may be necessary in the future, should a specific proposal come to the Congress which involves the imposition of a charge, be it socioeconomic or a portion of the settlement of the Canadian land claims, or with regard to the question of provincial taxes or duties or charges, that we can consider at that time whether or not there should be a reservation to a protocol if it does not properly address the questions I have tried to articulate this morning.

Based upon what I consider to be the general record before the Foreign Relations Committee and their fairness in addressing what this transit pipeline treaty is intended to do, which is to be an umbrella extending over future negotiations concerning specific pipelines, I do not see the necessity to pursue the reservation and I would not intend to offer it.

I know the Senator is entitled to time, either on the original time or time on this reservation. If he intends to make any comments, I will withhold the withdrawal of the reservation to assure he has the time, or the Senator from Idaho has the time, if they wish to make comments at this time.

Mr. President, I thank the Senator.

Mr. SPARKMAN. Mr. President, I thank the Senator from Alaska for his careful and studious handling of this matter. Particularly, its relationship, as he sees it, to the State he so well represents.

I trust the reservation will not be offered. I do not see it is necessary.

There are, according to the terms of the treaty, things left open. It is recognized in there that there will be future

questions to be determined between the two countries and, as I see it, the procedure is pretty well outlined. The reservation could be, if the Senator felt later he needed a reservation, offered to any change that might be proposed or any additions to it in the future.

I appreciate his offer to withdraw the reservation. I hope he does in order that this matter can go right through.

Mr. STEVENS. Very well. I thank the Senator for his response to my questions.

Mr. President, I do withdraw the reservation.

The PRESIDING OFFICER. The reservation is withdrawn.

Who yields time?

Mr. SPARKMAN. Mr. President, I am willing to yield back the remainder of my time if the Senator from Alaska——

Mr. STEVENS. Mr. President, how much time does Senator CASE have remaining? Did I use it all?

The PRESIDING OFFICER. The Senator from New Jersey has 45 minutes remaining on the treaty.

Mr. STEVENS. I yield the Senator from Idaho 5 minutes.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

Mr. SPARKMAN. Will the Senator yield for a minute?

Mr. McCLURE. Of course.

Mr. SPARKMAN. Mr. President, I would like to hear about that time again. We had only 1 hour to the side.

The PRESIDING OFFICER. There was 1 hour on the reservation. However, there are 2 hours evenly divided on the treaty itself.

Mr. SPARKMAN. I was not aware of the situation with respect to the reservation. I will reserve my time.

Mr. McCLURE. Mr. President, I commend the Senator from Alaska for the statement he has just made, and I am a little sorry that the reservation was withdrawn.

I am opposed to this treaty, not because I think a treaty is not necessary, but because if a treaty is to be entered into between the United States and Canada now on this subject, in my opinion now is the time to solve the problems which are left unsolved in this treaty.

Nearly 4 years ago, I wrote to Senator JACKSON, as a member of the Interior and Insular Affairs Committee, dealing with the problems of the availability of energy supplies for our country, and suggested to Senator JACKSON, the chairman of that committee, that it was time for the energy legislation committee to sit down with Canadian officials and work out some of the problems. Senator JACKSON never has seen fit to hold those meetings or to schedule those meetings. I have repeated the request informally from time to time over the years since that time.

In one respect, I am a little puzzled by the opposition of the Senator from Alaska, because I know of his preference for the all-Alaska route on the gas pipeline. I suggest that if this treaty is ratified and enforced, probably the all-Alaska pipeline is the only alternative, because there never will be a pipeline built that will be acceptable to the United States under the terms of this treaty. My guess is that the result of this treaty will be a great impetus for the all-Alaska pipeline, simply because it closes the alternative.

Mr. STEVENS. Mr. President, I have not opposed this treaty. I have specifically stated, as the committee has, that it does not address any particular pipeline. We have tried to articulate here today the reasons why the reservations that were discussed with me by Alaskans are not necessary, in view of the position taken by the Department of State before the committee in the hearings and in terms of the response that the Senator from Alabama and I received from the Department of State to specific questions we asked concerning this treaty and its applicability to some of the problems and conditions we foresee in the event a pipeline were to be approved to go through Canada.

It is not a pipeline treaty for the Alcan system, the El Paso system, or any system. It is an umbrella treaty, covering the general relationships between Canada and the United States with regard to pipelines in general. It will apply immediately to the pipeline carrying Canadian oil through the United States to Canadian markets. It does have a potential value to the Kittimat proposal to take Alaskan oil from the west coast of Canada to the northern tier States.

It is a pipeline treaty which is necessary. It is necessary in spite of the fact that it cannot and does not address the specific questions involving any specific route for a specific pipeline through Canada or, for that matter, through the United States, to carry Canadian resources to Canadian markets.

Mr. McCLURE. Any negotiation—and this involves negotiation—in the general pipeline umbrella or a specific pipeline treaty on a specific line contains several elements. Several of the elements which should be involved in the solution to the Alaska gas question already have been settled by this, without settling the central problems that deal with that. I think it reduces the likelihood of a favorable treaty so far as the Alcan route is concerned, if that should be decided as the preferable alternative by U.S. officials or by Congress.

I am sorry that we did not utilize this opportunity to pin down the various questions that deal with that problem. My concern is not simply the provisions of this treaty but the fact that this treaty does not solve the largest outstanding dilemmas confronting this country. It is too little, it is too late, and it postpones the likelihood or, in my judgment, makes less likely the possibility of forging an appropriate treaty with regard to Alaskan gas.

That, to me, is the fundamental problem concerning us right now. Certainly, there are other problems with regard to hydrocarbons and the pipelines and the issues to which the Senator from Alaska has made reference. If we had had more opportunity, I am sure we could have forged a better treaty.

Anyone who has been involved in negotiations with the Canadian Government must realize how difficult those negotiations may be. My predecessor in this seat in the Senate, former Senator Len Jordan, was the head of the International Commission for many years which negotiated the treaty with the Canadians on the Columbia River water. That was a very prolonged and a very difficult negotiation. I have discussed that matter with him on many occasions over the years, and I know what the outcome of that treaty was and how favorable it was to the Canadian Government.

I suggest that anyone who believes we are going to get a pipeline for Alaska gas without some kind of very favorable concessionary status to the Canadians is not familiar with the background of the negotiations for that treaty—either on the Columbia or on the St. Lawrence Seaway, particularly on the Columbia. I am more familiar with the concessions, the long-term benefits, and the long-term cost to us with respect to the Columbia treaty. I suggest that when we get around to the negotiation of the treaty dealing with a pipeline for Alaskan gas, negotiations on the Columbia River Treaty will look very easy by comparison.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr. President, will the Senator yield me 2 additional minutes?

Mr. STEVENS. I yield 2 minutes to the Senator.

I say to the Senator from Idaho that this Senator, as a young lawyer, was associated with those who negotiated the St. Lawrence Treaty. I was in the Department of the Interior at the time we negotiated the Columbia River Treaty.

What the Senator from Idaho is saying is music to my ears. He is sending a message to the Canadians that this is not a treaty that authorizes or gives any approval to either the Alcan system or the El Paso system. He is warning our colleagues of what I have tried to warn them, and that is that they do not know, they are not listening to, what is being said in Canada; and that it will be a cold day in hell when we approve the conditions that are being discussed in Canada as applicable to a pipeline to carry Alaska's gas through Canada.

We will not approve an all events tariff. I do not think we will approve Government guarantees of private financing of cost overruns. We will not approve charges to pay socioeconomic costs, including payment of Canadian Native claims being assessed against a pipeline that carries Alaska's gas. That is what I hear the Senator saying, and I am glad to hear him say it.

The Senator from Idaho is not disagreeing with this Senator or with the Senator from Alabama. The Senator from Alabama has been most fair and most cautious, as was every other member of the Foreign Relations Committee. This treaty does not deal with any specific pipeline or any specific condition applicable to any specific pipeline. This is an umbrella treaty. It is necessary to assure the continuing negotiating relationships between Canada and the United States in this area, but it does not affect any specific pipeline.

There are those people in Canada at this very time who believe this treaty, in effect, paves the way for the construction of a pipeline through Canada, and I am delighted to hear you say it does not.

Mr. McCLURE. I thank the Senator from Alaska.

I agree with him on every point he has made save one, and that is the implication that somehow this does not affect those negotiations. I think this does affect those negotiations by having settled some of the outstanding issues which they are happy to have settled and, therefore, we subtracted from the other negotiations something we could have put into the negotiations as part of the bargaining leverage on those other more difficult negotiations.

But I agree with my friend from Alaska, if I understand what is being discussed in Canada right now about conditions on an Alaska gas pipeline through Canada. We are not about to, nor should we, nor are we able to, accede to the demands which some are beginning to accept as almost certain concessions that we will make.

I am only sorry that this process did not start sooner with regard to the Alaska gas pipeline. It is nothing that was unforeseen. We knew the moment Alaska oil started moving that we had to have a solution to the Alaska gas marketing question, and we have allowed the time to go by.

I would say to the Senator from Alaska certainly he is not guilty of that, but we, as a Nation, have allowed the time to go by when we should have been negotiating that agreement, and the pressure is on us more now because the technological problems in that field at Prudhoe Bay with regard to the recovery of, and the conservation of, that gas mount day by day as the oil is produced and shipped south, and there must be a solution to that problem.

It is absolutely necessary, it is in the national interest, that we find a solution, and this treaty here today does not further that goal.

I agree with the Senator from Alaska that it does not further that goal, but my only disagreement is that, in my judgment, it detracts from achieving that goal, and that is the more important immediate problem for us to face. It is not something we can face 5, 10, 15 or 20 years down the road. It is a problem that should have been resolved by this time, and remains still very much early in the negotiating stage.

I thank the Senator from Alaska for his comments and for yielding his time because I am very gravely concerned.

Mr. STEVENS. I am delighted the Senator from Idaho came because I have a simple solution. We need no treaty to build a pipeline through Alaska or use the liquified natural gas tankers to bring the gas to market, including the great Southern Natural Gas Co. that serves the area of the Senator from Alabama, the chairman of the Committee on Foreign Relations. So we have no desire to have a specific treaty covering a specific pipeline. We would rather build the Alaska pipeline.

I would like to say, Mr. President, I do not take lightly the comments of the Senator from Idaho, nor should the Senate.

When we settled the Alaska Native land claims for approximately 75,000 Alaska Natives, and this Senator urged the Congress to do so and urged the final settlement. We paid almost $1 billion and confirmed title to over 40 million acres of land of Alaska. As I said, the State of Alaska paid the largest portion of that settlement in terms of dollars, and we made certain that the consumers of the United States would not bear any of the costs of settling the Alaska Native claims.

Obviously to do so would put Alaska's gas at a competitive disadvantage with gas from other portions of the country. As I said, it is already at a disadvantage because of its remoteness and the cost of transportation to markets.

The proposals that are being discussed in Canada on this very day indicate a desire to shift the burden of the cost of settling the claims of Canadian Natives, claims of Native people, almost three times as many people, in the Northwest Territory and the Yukon Territory of Canada, against their Canadian government. I, as a U.S. citizen, cannot pass on the validity of their claims. I can say many Alaska Natives have talked to me about the claims of Canadian Natives against their Government, and Alaska Natives have tried to assist the Canadian Natives in getting a resolution of their claims.

It is, as I have said before, a human rights issue, and I see no reason why the position of the United States with regard to human rights should stop at the Canadian border. We should do what we can to assure that the Canadian natives obtain justice in their claims against their Government, consistent, of course, with our relationships with that Government as a neighbor.

But the settlement of those claims should not be assessed against the U.S. users, consumers, of Alaska's gas. To do so would set a precedent that will haunt this Government for years.

I only need mention the problems that persist in this country in Maine, in many Western States, with regard to Indian claims. It is an issue that is going to take many more years to resolve completely, and in honesty and full justice to those involved.

But we should not consent in any way to the imposition upon American consumers of the cost of settling Canadian native claims and, as the Senator from Idaho says, and as one who sat with—I was not a direct negotiator but I sat with—those who negotiated the Columbia River Treaty, I know our friends to the north, the Alaskans' friends to the south, are tough bargainers and we have a difficulty, as U.S. citizens, sometimes in listening to our North American colleagues from Canada. It is time we started to listen to what they are saying because the conditions they are discussing literally raise the hair on my head and there is not much of that left. [Laughter.]

Mr. McCLURE. I would say to the Senator from Alaska it is not enough simply to listen, as important as that is. I think we also must be engaged in direct discussions concerning the terms of any proposed treaty on any such pipelines. I am not certain we can arrive at any agreement, but every day we wait makes more inevitable the closing of the options and the elimination of any option save the one which is favored by the Senator from Alaska, and I think it is not just that question. It is also the question of whether or not the Canadian Government is going to be able to open its northern provinces and get the northern Canadian gas to market, and whether or not any of that Canadian gas marketing will then relieve their strictures on the shipment and sale of Canadian gas to the United States consumers.

Mr. STEVENS. I might say to the Senator from Idaho on that point there never has been an indication to this Senator—and I probably have spent as much time in Canada as any Member of the U.S. Senate—there never has been any indication of a change in the national policy that there will be no increase in the total commitment of gas on a permanent basis from Canadian sources, Canadian production, for U.S. use.

There has been indication that there is an intention to fulfill existing commitments, and I believe they will do this as soon as possible.

Mr. President, you will recall the discussions we have had, and I am sure the Senator from Alabama remembers them, concerning the sanctity of contracts, particularly in the West in terms of delivery of gas to the United States. But I know of no additional gas resources in Canada which will be made available to the United States. The additional resources available to our Nation are in my State.

Mr. McCLURE. Let me say to the Senator from Alaska it is not simply a meeting of commitments because those commitments had two parts. They have agreed to fulfill the volume, but they have violated not only the letter but the spirit, certainly the spirit, of those commitments with regard to price and time.

Mr. STEVENS. And time.

Mr. McCLURE. Better than 60 percent of the gas that is marketed in my State comes from Canada.

I listened to a number of people here on the floor from time to time talking about the issue of natural gas price deregulation. We are deregulated. The Canadian gas is deregulated not because the contract permitted any adjustment but because they imposed border taxes equal to the difference. So that so far as the consumer in my State is concerned, we are paying the world market equivalency in Btu content for that Canadian gas right now as dictated by the level of OPEC cartel oil prices. That is not within the spirit or the letter of the original agreements, commitments, that were made on the delivery of Canadian gas. That is one of the things that needs to be solved.

Mr. STEVENS. I am sure the Senator knows we could not solve that with this

treaty. This is a transit pipeline. This is not a treaty to cover production in the United States for Canada or production in Canada for the United States. It is solely a treaty to have an umbrella over a pipeline that originates in one country and returns to that originating country, notwithstanding the fact they transit the neighbor's area.

Mr. McCLURE. I recognize that. This is only a small facet of the total problem, but the total problem remains, and that is the concern that I express.

But I will not belabor that point. I agree with the Senator from Alaska that we do need to listen to our friends to the north, and they are our friends. They are going to make the best bargain they can for themselves, and I do not blame them for that. The only problem is we ought to also be very conscious of what that does to the consumers in this country, and we ought to try when the opportunity arises to solve the problem instead of simply dealing—nibbling away with little aspects of the total problem without addressing the fundamental problem.

I think we have missed an opportunity. For that reason I shall register my vote in opposition.

Mr. STEVENS. I yield back the remainder of the time subject to comments of the Senator from Alabama.

Mr. SPARKMAN. Just a few additional minutes.

Mr. STEVENS. Yes.

Mr. SPARKMAN. I have listened with great interest to the conversation carried on by my friends on the other side. As I recall one of them used the expression "umbrella."

Mr. STEVENS. I did.

Mr. SPARKMAN. It seems to me that is rather descriptive and correct. Remember that this does not close and seal everything forever and ever. It is an umbrella to protect the way, but at the same time to leave open further negotiations, further protocols, and further agreements of different kinds. We are not trying to solve the whole thing at one time forever and ever. I think we should remember that, and it was primarily upon that basis, that understanding of mine, that I expressed the hope the Senator from Alaska would withdraw his reservation as he did.

Mr. McCLURE. Will the Senator yield for just 1 minute?

Mr. SPARKMAN. I yield.

Mr. McCLURE. The analogy of an umbrella strikes me as being perhaps an apt way of expressing my concern. If it is sprinkling a little and a flood is rising around my knees, I am going to be more concerned about the flood than I am about the sprinkle on my head. And I think in this context this is an umbrella.

Mr. SPARKMAN. I believe in that context, to relieve the Senator's fears about the flooding around his feet, he is justified with this understanding and with this treaty arrangement that we have presented today.

Mr. STEVENS. Again I thank the Senator from Alabama for his comments, Mr. President, and I have withdrawn the reservation after discussing the matter with him. I am convinced that the letter from the Department of State clearly indicates to us that unless these charges are imposed upon similar pipelines in Canada they would not be proper under this agreement and that means that any move to try to make such charges proper would have to be presented to the Senate in the form of either a protocol or an agreement for consideration by the Senate, at which time I am certain the Senator from Alabama would again permit the Senator from Alaska to participate in any consent consideration, and I am sure the Senator from Idaho would be present at that time, too.

I thank the Senator and am prepared to yield back the remainder of the time having had no request for further time on this side.

Mr. SPARKMAN. I am glad to yield back my time. I have had no request.

Mr. STEVENS. I yield back the time of the Senator from New Jersey.

Mr. SPARKMAN. I had no request to reserve time on this side.

ADDITIONAL STATEMENT SUBMITTED

Mr. BAYH. Mr. President, although the Senator from Alaska has indicated that he will not press his reservation to the Transit Pipeline Treaty, I would like to comment briefly on it. This reservation, which is obviously directed at the proposed Alcan pipeline project, would bar approval of any pipeline for carrying gas from Prudhoe Bay across Canada to the lower 48 States unless the United States had first received assurances from the Government of Canada with respect to three issues. Comments on all three issues set forth in the reservation are in order.

First, the reservation would bar approval of a transit pipeline until the United States received assurances that no part of the cost of the settlement of Native land claims in Canada would be assessed against the pipeline. Although this is a valid concern, it does not require a reservation on the treaty. The Lysyk report on the socioeconomic impacts of the Alcan project in the Yukon, which was released yesterday, confirms the Canadian Government's position on this issue. As the report stated, the cost of settling these claims is not to be borne by the pipeline. It is a special obligation of the Government of Canada.

Incidentally, I should note that the Lysyk report effectively cleared the way for Canadian approval of the Alcan project. It supports Alcan and finds it to be beneficial to both the Yukon and Canada.

Further, putting off construction until August 1981, as recommended by the Lysyk commission, will not result in lengthy delays in actual delivery of Canadian or Alaskan natural gas to the United States. The delays suggested by the Lysyk report, if accepted by the Canadian Government, would extend the actual completion of the Alcan project for approximately 8 months to 1 year, and not the 4 years that might be inferred. This is because the delay mentioned by Lysyk would affect only the actual installation of pipes. Preconstruction work, such as surveying, road grading, and development of work areas can begin as scheduled. Thus, even if the recommendation is accepted, the Alcan pipeline will be in operation by 1982, far in advance of the El Paso project.

In addition, the moritorium recommended by the Lysyk commission does not affect construction of the Albertan or American parts of the transmission system. Thus, Alcan will still be able to begin deliveries of substantial volumes of additional Canadian gas to the United States, for which a contract has already been signed, by 1979 or 1980. This will ease gas shortages even before Alaskan gas begins to flow, and prevent too many more unnecessary winters like the one we suffered last year.

Second, the proposed reservation would bar pipeline approval if any charge for the socioeconomic costs created by the pipeline would be assessed against the pipeline. I do not understand the basis for this reservation since it is directly contrary to the principle that those who benefit from a project should bear its costs. These costs clearly include the socioeconomic impacts on the areas which the pipeline transits.

Indeed, in recent years, the United States has recognized that very large projects create secondary socioeconomic impacts and had begun to establish means to compensate for them. Examples are the Strip Mining Act which we recently passed and the energy impact provisions of the Coastal Zone Management Act. Normally, compensation for such impacts has been by Federal Government loans and subsidies, which is different from the proposed Canadian pipeline impact fund. However, the principle is the same.

Further, Canada's National Energy Board indicated that it would have imposed a similar requirement on any pipeline transiting areas north of the 60th parallel. Thus, requiring establishment of such a fund for the Alcan project is not discriminatory and preventing discrimination is the objective of the treaty.

The third provision in the proposed reservation would bar pipeline approval unless the Government of Canada agrees to hold harmless American companies from any monetary charges imposed in contravention of the treaty. This is a needless affront to the Canadian Government since it has committed in the treaty not to discriminate. The ordinary principles of international law and the practical realities of transit pipelines in North America are sufficient to deal with any treaty violation.

Further, there is no basis for speculating that the Canadian Government might tax the Alcan project in a discriminatory fashion. Indeed, the Lysyk report recommended a method of computing property taxes which is virtually identical to the approach adopted by the State of Alaska for the Alyeska oil pipeline. The Lysyk report notes that this method, when applied in the Yukon, will result in tax revenues per mile of pipeline that are less than three-quarters of the revenues per mile that will accrue to the Alaska State government from property taxes on the Alaskan section of the pipeline.

Thus, Mr. President, it is clear that the provisions in the proposed reservation are unnecessary. I would also like to in-

dicate that the Lysyk recommendations are only suggestive and do not bind the Canadian Government to any particulars. The Lysyk report is only one of a number of factors the Canadian Government will take into account in making its final decision about the precise amount to be assessed against the pipeline. In fact, this issue will likely be a subject of negotiations between our own Government and the Canadians.

Given these considerations, Mr. President, I am pleased that the Senator from Alaska is withdrawing his proposed reservation.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the resolution of ratification. (Putting the question.) Two-thirds of the Senators having voted in the affirmative the ayes have it.

Mr. SPARKMAN and Mr. STEVENS addressed the Chair.

Mr. STEVENS. Mr. President, is it necessary to reconsider the vote by which the resolution of ratification of the treaty was agreed to?

Mr. SPARKMAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPARKMAN. Is not a rollcall vote mandatory on the treaty?

Mr. STEVENS. It is not mandatory on a treaty, to my knowledge.

Mr. SPARKMAN. I think it is.

The PRESIDING OFFICER. A rollcall vote is not mandatory under the Constitution.

Mr. SPARKMAN. Mr. President, I believe we should have the yeas and nays.

Mr. STEVENS. Does the Senator wish to have the yeas and nays?

I might say to the Senator from Alabama that the leadership reserved all rollcall votes until after 12 noon. If he wishes a vote, we do not disagree, but I do not know that the vote is necessary on this treaty.

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

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, are we discussing a vote on the resolution of ratification of the treaty?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. I think we should always have rollcall resolutions of ratification of treaties.

Mr. STEVENS. Very well.

The PRESIDING OFFICER. The vote has just been concluded by a voice vote.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that vote be vitiated.

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

Mr. ROBERT C. BYRD. Mr. President, is it not true that the ratification of resolution of treaties requires two-thirds vote

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I think we would be criticized if the Senate were to agree to a ratification of resolution of a treaty with only five Senators in the Chamber.

Mr. STEVENS. Mr. President, I offer my apologies to the Senator because I felt the rollcall vote was not required. I understand tradition would be consistent with the request of the Senator from West Virginia, and certainly we have no objection. I favor the treaty. I know of no one who wants to oppose it.

Mr. McCLURE. Except me.

Mr. STEVENS. I have just been informed that the Senator from Idaho wishes to oppose it.

Mr. ROBERT C. BYRD. Mr. President, there will be a rollcall vote on the treaty. I ask unanimous consent that it be in order at any time, either during legislative session or executive session, to request the yeas and nays on the resolution of ratification.

Mr. STEVENS. Today.

Mr. ROBERT C. BYRD. Today.

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

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays on the ratification of the treaty.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

Mr. STEVENS. I thank the distinguished majority leader.

LEGISLATIVE SESSION

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

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

PUBLIC FINANCING OF SENATE ELECTIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 926, which the clerk will state.

The legislative clerk read, as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on the amendment by the Senator from Nevada (Mr. CANNON), on which there are 15 minutes remaining for Mr. CANNON and 20 minutes under the control of the Senator from Oregon (Mr. HATFIELD).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged against either side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Nevada.

Mr. HATFIELD. I thank the Chair.

I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, under the same conditions as before as to time.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AGREEMENT WITH CANADA CONCERNING TRANSIT PIPELINES

Mr. ROBERT C. BYRD. Mr. President, as in executive session and in accordance with the earlier understanding, I ask unanimous consent that the rollcall vote on the resolution of ratification of the Trans-Canada Pipeline Treaty occur at 12 o'clock noon today.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call not be charged against either side.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 o'clock noon today the Senate go into executive session, and that, immediately upon the disposition of the vote on the ratification of the treaty, the Senate return to legislative session.

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

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

Mr. CANNON. Mr. President, what is the parliamentary situation?

AMENDMENT NO. 769

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Nevada. The Senator from Nevada has 15 minutes, and the Senator from Oregon has 20 minutes.

Mr. CANNON. Mr. President, I ask unanimous consent that the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of my amendment.

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

Mr. CANNON. Mr. President, I yield myself such time as I may need.

This amendment would authorize the Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, to conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The amendment would further require the Commission to report to the Congress the results of the study, including recommendations, if any, for the implementation of a program of such standards. This would include estimates of the costs and time required to implement such a program.

Mr. President, there are at present over 12 different voting devices now being used to record votes in Federal elections in this country, and estimates of the Clearinghouse on Elections Administration of the Federal Election Commission indicate that the sale of voting systems is a $35 to $40 million a year business. We are all aware of some of the problems which have arisen with the operation of these various automated and nonautomated vote recording devices, but I would like to mention a few.

One example can be found in the recent Durkin-Wyman Senate contest where evidence was presented indicating that a number of lever voting machines had malfunctioned during the election. Additional jurisdictions have cited problems with lever machines, including counter, machining, and transparent curtain difficulties. Problems have also been cited regarding computerized voting systems, involving such matters as ballot card length, width, texture, and other variations that affect ballot counting operations, and problems with the software purchased or leased from various vendors, as well as difficulties with incomplete card punches.

At the present time, there are few standards against which to evaluate these voting systems. While a number of States have provisions in their State codes for testing voting systems, the standards that have been developed are not very detailed and may not necessarily apply to other jurisdictions. In addition, these standards usually apply only to the initial approval of a voting system. Very little is currently provided for retesting voting systems once they have been approved.

The long-term objective would be to develop voluntary performance standards for voting systems and associated computer programs used in Federal elections and the implementation of an institutional system through which conformance with those standards by particular equipment can be measured and verified at the State and local government levels. No State or local government would be compelled to use these standards but if a State chose to do so, it would have access to a more comprehensive system of standards than the State could develop with its own resources.

The manner by which voting equipment is procured, operated and tested has been a matter of growing conern to State and local election officials. In January of 1977, an FEC Advisory Panel of State and local election officials recommended the development of voluntary standards for voting systems. The increasing sophistication of voting equipment and the related technical aspects and problems associated with this equipment points out the need for both standards and recommendations detailing procedures which wiill assure the accuracy and security of vote tallying.

This study could, among other matters, concentrate on defining the problem in more detail, analyze current State legislation and testing procedures, identify institutional mechanisms that need to be put in place at the State and local government levels to insure the implementation of performance measurements against the standards and finally identify the specific standards that might be developed during subsequent stages of the program.

This amendment would give the Congress endorsement to a preliminary study at the Federal level for the eventual development of such voluntary standards and guidelines to be used by State and local governments during the testing, approving, certifying, procuring, operation and retesting of voting systems.

I understand that there have been preliminary discussions between the Bureau of Standards and the Commission as to the need for uniform standards as well as the manner by which such a study could be conducted. I would like to have the Congress go on record in support of the effort, and endorse such a study which I believe will make a significant contribution to the reliability and security of our elections.

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

Mr. HATFIELD. Mr. President, I am happy to cosponsor this amendment with the distinguished Senator from Nevada. I shall underline only a couple of points that he made in his presentation.

One is that this amendment would provide for a preliminary study to make an assessment of the situation at hand, and would provide also for the voluntary acceptance of what standards may be developed on the part of the States.

As a former secretary of state of my own State of Oregon, I was the elections director for the State, I recall that frequently various salespersons would come by, and to promote that particular election machine product.

As the elections officer of the State, I had, of course, no technical skill or knowledge to make judgments, assessments, or observations, and neither did the legislature. The same salesmen would oftentimes come by the legislative sessions and attempt to persuade legislators to install by law a certain voting device.

We experimented with various of these devices and, of course, it was on the basis of a rather unscientific and yet practical kind of experiment.

I think the National Association of Secretaries of State would probably welcome this committee to move on this subject and to develop this kind of information for them. In most States, the Secretaries of State are assigned the responsibilities of the administration of election laws.

As the Senator from Nevada has indicated, we got into this subject matter when we were handling the Durkin-Wyman contest in New Hampshire. We had evidence there of how certain voting machines malfunctioned during that election, which threw further confusion into the election in New Hampshire.

I commend the Senator for this particular amendment and say I am pleased to join him and urge its adoption.

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

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

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

The amendment was agreed to.

AMENDMENT NO. 544

Mr. CANNON. Mr. President, I call up amendment No. 544 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes amendment No. 544.

EXAMINATIONS AND AUDITS: REPAYMENTS

SEC. 206. Section 9007(d) of the Internal Revenue Code of 1954 (relating to deposit of repayments) is amended by striking out "general fund of the Treasury" and inserting in lieu thereof "Presidential Election Campaign Fund".

Mr. CANNON. Mr. President, this amendment would require that all repayments of excess public funds from eligible candidates in the Presidential general election, and from the parties with regard to convention expenses, be redeposited in the Presidential election campaign fund, rather than the General Treasury.

Under present law, all repayments from candidates in the Presidential primaries are made to the Presidential primary fund and not to the General Treasury, while repayments from the general election candidates and the parties with regard to their conventions are deposited in the General Treasury.

This amendment would conform existing law to require that any repayment of checkoff funds be returned to the fund. I think it is clearly what the Congress intended.

Mr. HATFIELD. Mr. President, I support this amendment and urge its adoption.

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

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

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

The amendment was agreed to.

AMENDMENT NO. 543

Mr. CANNON. Mr. President, I call up my amendment No. 543.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment No. 543.

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

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

The amendment is as follows:

On page 56, strike lines 9 through 19, and insert in lieu thereof the following:

SEC. 106A. Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Any State or national political committee of a political party registered with the Federal Election Commission shall be entitled to use the same postage rates as a 'qualified nonprofit organization', as defined in former section 4452(d) of this title, so long as any such organization is entitled to use such rates for communications relating to any political or legislative subject.".

Mr. CANNON. Mr. President, this is essentially a technical amendment to part II of S. 926. At page 56, beginning at line 9, the committee provided for reduced postage rates for State and national political party committees.

The Postal Service has advised the committee that this provision should be enacted as an amendment to title 39 of the United States Code rather than as an amendment to the Federal Election Campaign Act. The purpose of this change would be to assure that the Postal Service is authorized to seek appropriated funds to make up any postal revenue loss as a result of the reduced rates afforded political party committees. This amendment would, therefore, merely include the reduced mail rates for political party committees among the other reduced rates in section 3626 of title 39 for which the Postal Service is authorized under 39 United States Code 2401(c) to seek appropriated funds. This, of course, is what the committee intended and this amendment would carry out that intent.

Mr. HATFIELD. Mr. President, I join the Senator from Nevada in urging adoption of this amendment.

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

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

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

The amendment was agreed to.

AMENDMENT NO. 578

Mr. CANNON. Mr. President, I call up amendment No. 578 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes amendment No. 578.

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

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

The amendment is as follows:

On page 63, lines 10 and 11, strike out "a candidate for President of the United States who is affiliated with a political party" and insert in lieu thereof "the national committee of a political party which has nominated a candidate for President of the United States".

On page 63, line 13, strike out "of being nominated" and insert in lieu thereof "after such candidate has been nominated".

On page 64, line 3, after "Any" insert the following: "national committee of a political party which has nominated a".

On page 64, line 14, strike out "candidate" and insert in lieu thereof "national committee".

On page 64, line 17, strike out "candidate" and insert in lieu thereof "national committee".

On page 64, line 18, strike out "candidate" and insert in lieu thereof "national committee".

Mr. CANNON. Mr. President, section 112(d) in part II of S. 926, gives a Presidential candidate an option to designate a specific committee in a State authorized to receive contributions and make expenditures on behalf of the Presidential candidate in the general election up to the greater of $20,000 or 2 cents times the voting age population of that State.

Under the bill, as reported, if this option is not exercised then the right to make these limited expenditures is given to the State committees of that party. State support of the Presidential nominee in the general election was curtailed by an absence of such a provision in the 1976 elections.

The purpose of this amendment is to give this option to the national committee of a political party, rather than the Presidential nominee. The national committee would appear to be in a better position to determine the relative strengths of that party's various State committees, and assess the need to exercise the right to designate a special committee in that State.

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

Mr. HATFIELD. Mr. President, I join with the Senator from Nevada in urging adoption of this technical amendment. I yield back the remainder of my time.

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

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

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I assume all the technical amendments have been completed now by the Senator from Nevada.

Mr. CANNON. That is correct.

Mr. HATFIELD. Mr. President, I would yield the floor for the purpose of recognition to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

UP AMENDMENT NO. 709

Mr. HEINZ. 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 Pennsylvania (Mr. HEINZ) proposes unprinted amendment No. 709.

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

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

The amendment is as follows:

Strike line 18 on page 69 and all that follows until the end of line 16 on page 70, and insert the following in lieu thereof:

"SEC. 301. Section 603 of title 18, United States Code, is amended by adding the following at the end thereof:

"The preceding sentence shall not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to section 308 of the Federal Election Campaign Act of 1971.".

Mr. HEINZ. Mr. President, I was shocked to find in S. 926 an amendment to current law which would make it legal for the staffs of Congressmen and Senators to solicit contributions in this building, in their own offices, or in any other Federal building.

I do not know what the committee had in mind in adopting this provision. I think we ignore the lessons of Watergate when we allow a Senate staffer to bring in a bunch of special interest people into his boss' office and say, "This is where the Senator works, here is what he has done for you, what are you going to do for him" while the staffer holds out his hand until an envelope full of money appears in it.

Unless my amendment is agreed to, and I hope the manager of the bill (Mr. CANNON) will agree to it, what I've just described is exactly what will happen. It is an invitation for up to two members of the staff of each Senator to solicit funds from special interests and have their salaries paid for by the taxpayers.

I ask the Senator from Nevada if that is what he intends. That is what is in this bill.

Mr. CANNON. I say to my colleague that he has not been here long enough to find out how these problems work. That is clearly not the intent of the statement in the bill.

I refer him to the provision in the report on page 25, reading as follows:

Section 301 of the bill amends section 603 of title 18 U.S.C. which prohibits the solicitation or receipt of contributions in a Federal building, to provide that it shall not apply to two assistants to a Senator who have been designated by that Senator, pursuant to Senate Rule XLIX to receive, solicit, be the custodian of or distribute any funds in connection with any campaign for the nomination for election, or election of any individual to be a member of the Senate or to any Federal office. Section 603 would also not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to Section 308 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437b).

This amendment was specifically required to clear up an ambiguity in the law that existed at that time. Congress has already acted, the Senate has acted, to say that a Senator may designate two people on his staff—and those two people only—who may receive campaign funds. That is in the rules of the Senate. It has been acted on by the Senate. Yet, there might have been a question of a check in the mail coming in and that person being able to receive it, involving a technical violation of the law.

Senator ALLEN raised this point. We considered it in the committee and we did make the determination that this was necessary to comply with rule XLIX that the Senate has already adopted.

Rule XLIX reads as follows:

1. No officer or employee of the Senate may receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to two assistants to a Senator, at least one of which is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph (except solicitation) and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if such assistant files a financial statement in the form provided under rule XLII for each year during which he is designated under this rule. The Secretary of the Senate shall make the designation available for public inspection.

That amendment, as I said, was simply a clarification of something that is already in the rule to make it clear that a person is not in violation of the law if he carries out what he is authorized to do under rule XLII. It is no more nor less than that specific provision.

I have sent word to Senator ALLEN. I presume he will be here shortly, because I am sure he would want to be heard on this matter.

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

Mr. HEINZ. Mr. President, let me respond to my friend from Nevada, because I do not think he understands the language I am seeking to strike.

If I may have the attention of the Senator from Nevada.

Mr. CANNON. The Senator has my attention, and I understand very completely what he is seeking to strike. We considered this in the committee, very completely.

Mr. HEINZ. Here is the point that seems to be glossed over.

The Senator is correct that the rule that we adopted earlier this year does permit a Senate employee—and I happen not to be in favor of the rule—to receive, solicit, or be the custodian of or distribute any funds in connection with a campaign. That is permitted under the Senate rule. I happen to disagree with that; I think it is a lousy rule. But that is not the point.

What section 603 in the United States Code is all about is not who is soliciting—that happens to be section 602—but where it is solicited. I shall restate my point to the Senator from Nevada so he understands it.

This is not an issue as to whether his assistant is going to be able to solicit funds or not. Striking what I propose to strike on page 69 and following does not eliminate the Senators' assistants' right to solicit funds. What it does eliminate and what it should eliminate is his or her right to solicit funds on Federal property. I do not want the Senator's assistant or my assistant or anybody's assistant picking up the WATS line and calling contributors and fat cats and special interest groups. That is what is at issue here.

The Senator raised one other point. The point that the Senator raised is, yes, there are contributions that come in the mail and they do come to Federal office buildings. I know. I have had contributions come in my mailbox and we send them off to our depository just as fast as we can. That is why I would leave the section 301 amendment, which I would put in with my amendment, namely, that section 603 of title 18 of the United States Code is amended by adding the following at the end thereof.

The preceding sentence shall not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to section 308 of the Federal Election Campaign Act of 1971.

That is a perfectly reasonable thing to continue. But what is totally unreasonable is to have up to two Senate employees on the phone, day in, day out, soliciting money out of the Senator's or anybody else's Government office. I do not think we can abide that. But that is exactly what the committee's amendment to section 603 would permit.

I see Senator CLARK of Iowa on the floor. He had the good sense to vote against this amendment in committee. I think Senator CLARK knows just how pernicious this amendment is.

I think the issue is very clear, Mr. President. The issue is whether we want to turn the U.S. Senators' offices into the Baltimore County Courthouse and make Marvin Mandel assistants out of every single U.S. Senate employee designated under the Senate rule. That is not at all the idea of this Senator.

I hope that, now that I have better explained my amendment—and made clear that we are not talking about a Senate employee soliciting away from the Senators' offices, away from this Capitol Building, away from any Federal building, out of his home, for example—that he will agree to accept this amendment.

Mr. CANNON. Was the Senator addressing that question to me?

Mr. HEINZ. Mr. President, I am asking my good friend and distinguished colleague from Nevada to reconsider his position, because I hope he can support this amendment. I would hate to see him be in the position of supporting the kind of shenanigans that section 603 opens the door to by letting special interest groups come in, negotiate with the Senator's administrative assistant, and leave an envelope on the table.

Mr. CANNON. I am sorry that the Senator imputes that kind of conduct to his colleagues. The Senator, I think, if he had been here a little longer, might credit them with a little more integrity than he apparently does.

Mr. HEINZ. I say to the Senator, I am not impugning anybody's integrity, especially that of my very distinguished colleague from Nevada, and I have been a Member of Congress for 5½ years.

Mr. CANNON. I am trying to respond to the Senator's question.

In the first place, Senate Resolution 188 has been acted upon by the Senate and there is a revision in that that requires the clarification.

In the second place, rule XLIX has been enacted by the Senate. The Senator says he does not agree with rule XLIX. That may well be, but he is only one of 100 Senators and the majority of them do agree with rule XLIX. They have acted on it. They have acted on Senate Resolution 188. It requires a clarification in that resolution and in rule XLIX if any change is to be made.

I certainly would not accept the amendment that he has proposed.

Mr. HEINZ. The Senator may want to know that we are talking about rule XLIX, not rule XLII.

Mr. CANNON. Also Senate Resolution 188.

Mr. HEINZ. Mr. President, I feel very strongly about this. I think the Senator from Nevada has to know that this amendment is very different from rule XLIX.

Rule XLIX goes to the conduct of a Senate employee, but it has nothing to do with where he may exercise his responsibilities and duties.

Section 603 goes to the place the activities occur. It has nothing to do with individuals, therefore.

It happens to be the case that in allowing this provision to remain unamended, as I have proposed to amend it, we are going to turn the offices of U.S. Senators into places where the business of the Senate will be for sale. I do not think that should be the case.

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

The PRESIDING OFFICER. On whose time?

Mr. HEINZ. On my time.

The PRESIDING OFFICER. The Senator does not have sufficient time.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The time runs equally against both sides.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania. The Senator has 3 minutes left on his own amendment. The Senator from Nevada has 11 minutes remaining.

Mr. HATFIELD. Mr. President, I thank the chair.

Mr. HEINZ. Mr. President, I ask the Senator from Nevada if he would be amenable to striking the word "solicit" from the bill where it occurs on line 2.

Mr. CANNON. Mr. President, I could not agree, I say to my colleague. I could not agree to strike that word because the Senate has acted in both of the particulars. It acted in rule XLIX and then in Senate Resolution 188.

So if I were to agree to strike it, I would be agreeing to doing something that is contrary to Senate Resolution 188, which has already been adopted by the Senate, the report of which specifically spells out why it was left in, why the language was in there.

Mr. HEINZ. Mr. President, I beg the indulgence of my friend, the Senator from Nevada, one more time.

I want to try and clarify one thing. That is, would he agree that the focus and heart of section 603 goes to the place that an activity takes place? Is that not the central point?

Mr. CANNON. If I understand the Senator correctly on his inquiry, it was, Does the change in 603 relate to the person and also the location?

Section 603 makes a specific prohibition that which the Senate has acted to overrule in rule XLIX and has also further acted on in Senate Resolution 188.

If I need to, I could read to the Senator the committee report covering Senate Resolution 188, which makes it very clear.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

The Senator from Nevada has 11 minutes on his own time left.

Mr. HEINZ. Mr. President, I did not yield to the Senator from Nevada. I assume he is proceeding on his own time.

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

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD addressed the Chair.

Mr. CANNON. Mr. President, reserving the right to object, I did not hear the Senator's request.

Mr. HEINZ. I asked unanimous consent to proceed for 5 additional minutes.

Mr. CANNON. How much time does the Senator have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. It has expired?

The PRESIDING OFFICER. The Senator from Nevada has 11 minutes.

Mr. HATFIELD. Mr. President, I would be happy to yield the Senator some time on the bill.

Mr. HEINZ. I appreciate that.

Mr. HATFIELD. Three minutes?

Mr. HEINZ. Five minutes.

Mr. HATFIELD. Mr. President, I yield the Senator 5 minutes on the bill.

Mr. HEINZ. Mr. President, I think it might be helpful if we just read section 603 as it now reads, and it says:

> Whoever in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in a navy yard, fort, or arsenal, solicits or receives any contribution of moneys, or other thing of value, for any political purpose shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

Now, that seems very clear to me that we are making it possible for up to two Senate employees to do something that no other Government employee may do in any Federal building.

I am extremely distressed that we cannot seem to see that we are setting a double standard; that title 18, section 603, will reman in effect for everybody else on Capitol Hill except for a Senator's two trusted and experienced fund raisers, paid for at the taxpayer's expense, to sit in the Senator's offices and solicit money.

Mr. President, for the life of me, I cannot understand the arguments of the Senator from Nevada. It is very clear that we are not talking about allowing a Senate employee to solicit money. He is correct that a Senate employee may solicit money under rule XLIX; but as sure as the Lord made little green apples, it is not the intention of the Senate, I hope to let him do that on Federal property, using federally paid for WATS lines, during normal business hours, with his salary paid for by the taxpayers.

Mr. President, I reserve the remainder of my time; but before I do so, I ask for the yeas and nays on my amendment.

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

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

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

The PRESIDING OFFICER. Nine minutes.

Mr. CANNON. Mr. President, I do not know that there is any more I can say on this matter.

I have pointed out already that the Senate has acted on rule XLIX and has acted on Senate Resolution 188, which left a confusion in the law. As a result of that, Senator ALLEN offered this amendment in committee to make clear that a Senator's employee would not be in violation, provided it is one of the two persons designated under rule XLIX and designated in accordance with Senate Resolution 188 to solicit and receive funds.

The Senate acted on both of those issues. The Senator already has said that he does not agree with rule XLIX. What he should do, then, is to try to change rule XLIX, if he has the votes, because the Senate did agree with that—a majority of the Senate—and it agreed with Senate Resolution 188.

So I hope that the Senate will support the committee in keeping part 2 of the campaign reform bill in substantially the same position it is in right now, so that we can make some very greatly needed changes.

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

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time, if the other side is.

Mr. HATFIELD. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada has 8 minutes remaining. The time of the proponents has expired.

Mr. CANNON. I yield back the remainder of my time, and I move to table the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion to table was agreed to.

UP AMENDMENT NO. 710

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 710.

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

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

The amendment is as follows:

> On page 66, after line 24, add several new sections, as follows:
>
> "PERSONAL CAMPAIGN EXPENDITURES"
>
> "SECTION 114. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—
>
> (1) by striking out "and" at the end of paragraph (p);
>
> (2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and
>
> (3) by adding at the end thereof the following:
>
> "(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part."
>
> SEC. 115. Section 316(a) of the Act (2 U.S.C. 439 (a)) is amended by inserting "or declaration" immediately after "statement".
>
> SEC. 116. Section 320(a) of the Act (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:
>
> "(9)(A) The limitations on contributions to a candidate for Federal office imposed by paragraphs (1)(A) and (2)(A) of this subsection shall not apply in the case of contributions to any candidate who has filed a declaration as provided in paragraph (1)(B) or (2)(B) of section 330(a) or his authorized political committees if any other candidate for election to such Federal office has filed with the Commission a declaration as provided in paragraph (1)(A) or (2)(A) of section 330(a).
>
> "(B) The exception provided for in subparagraph (A) shall apply only to the extent that such contributions do not exceed the amount by which the greatest amount of intended personal expenditures declared by any candidate, as provided in paragraph (1)(A) or (2)(A) of section 330(a) with respect to a particular election, exceeds $35,000. If more than one candidate files a declaration pursuant to paragraph (1)(A) or (2)(A) of section 330(a) with respect to such election, each candidate who has filed such a declaration shall be entitled to make personal expenditures in the same amount as the candidate declaring the greatest such amount.
>
> "(C) In the case of a runoff election, any candidate for Federal office (other than the office of President or Vice President) who is permitted under this paragraph to receive contributions in excess of the limitations imposed by paragraphs (1)(A) and (2)(A) of this subsection or his authorized political committees may receive such contributions

prior to the runoff election for such office only if such contributions—

"(i) are deposited in a single checking account to which no other funds are transferred; and

"(ii) are not used to make expenditures until after the date of the primary election which results in such runoff election.".

SEC. 117. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

SEC. 118. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

"SEC. 119. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days before the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary election, whichever is earlier, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for election to such office, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

SEC. 119. Any candidate who makes an expenditure reported pursuant to section 119 shall be in violation of the act.

Mr. JOHNSTON. Mr. President, this amendment is part of a broader amendment which I submitted to the Rules Committee as a bill and on which we had hearings. I think it is fair to say that the whole amendment at that time had some favorable comment but that there were some provisions that were considered, in remarks of the committee, to be a little too strong. For that reason, I have watered down the amendment somewhat, to make it deal with what I think is a very serious problem under the election law, and that is the problem of personal money being spent by candidates in a campaign.

This amendment would not restrict 1 cent of what a candidate can spend in a campaign, but it would require that within 5 days of the time he qualifies for office or 60 days prior to that election, whichever is later, he make his own declaration as to how much money he is going to spend. He sets the limit. If he wants to spend $1 billion, he can make a statement that he wants to spend $1 billion, and that is his limit. However, whatever he designates, he will be stuck with that limit and may not spend more than that in the campaign.

What is the reason for this, Mr. President? The reason is that the question of how a campaign is financed and how much of a man's personal money is to be spent should be known up front in any campaign. If you do not have that knowledge up front, then a candidate using his own personal money, using the advantage of his own personal wealth, can, in the last week, tilt dramatically the results of an election and do so without the public having any sense of what is happening.

I think it is fair to say that at least a third of most campaign budgets are expended within the last week or 10 days. That is when the television blitz comes on; that is when the phone banks come into effect; that is when the signs go up; that is when the media activity as well as personal activity are at their highest points.

If the critical part of the campaign is going to be financed by personal wealth—and we do not attempt to prohibit that—all we say is that that should be known up front. If a candidate wants to put his own money into a campaign, as the Supreme Court has said he may, then it should be known up front, and he should be restricted to that amount, so that the other side, which may not have the advantage of wealth, will be in a position either to make the campaign issue or know what the other side is spending, so that it can respond by seeking to raise more money.

I hope that the committee can accept this amendment.

This takes away the more Draconian features of the original bill I presented, which provided for more difficult sanctions. But this simply lets him set his own limit and prevents him from spending more than he sets.

Mr. CANNON. Mr. President, if I understand this amendment correctly, I do not believe I can accept it. I should like to ask the Senator a question or two.

Let us take the case of the distinguished Senator from Pennsylvania. Let us say he announced that he was going to spend $50,000 of his own money in a campaign and that thereafter he decided, because of the way the campaign developed, that he would have to spend more than that and he spent $100,000 of his own money. Do I correctly understand that he would be in violation of the law because he spent the additional $50,000? The Court already has said that we cannot limit the amount of a person's own money he can spend in a campaign. Would he be in violation of the law, under this provision?

Mr. JOHNSTON. This is not in opposition to the Court at all.

Mr. CANNON. All I am trying to find out is whether he would be in violation of the law if he spent $100,000, when he said he was going to spend only $50,000 of his own money.

Mr. JOHNSTON. That is correct.

Mr. CANNON. So he would be in violation of the law, even though the Supreme Court said you cannot limit the amount a person can spend on his own campaign if he is not accepting public financing.

Mr. JOHNSTON. I would not accept the implication that the Supreme Court has made impossible this kind of thing. What the Supreme Court has said is that you cannot limit expenditures, by law, of a man's own personal money. We do not attempt to limit that. What the Supreme Court says you can do is to provide for disclosure. All this does is to provide for disclosure at a time when it will do some good. It does not do any good after the election is all over and they come in and say, "Yes, we spent a million dollars of our own money," if it is not disclosed until after the fact.

Mr. CANNON. I recognize that. But what disturbs me is that we cannot tell a man how much he can spend. We cannot limit what he can spend.

Mr. JOHNSTON. That is correct.

Mr. CANNON. But if we say he can spend only so much and then he spends more, he is in violation of the law.

There is one other feature in this amendment that would cause me to oppose it. If I read the amendment cor-

rectly—and I have only read it hurriedly—in the same situation I described, in which he spent $50,000 more than he stated, the other candidate would not be bound by the contribution limitations of $1,000 per person or of $5,000 per PAC, under the law. They could give any amount of money to help that candidate raise the added $50,000.

Mr. JOHNSTON. I have taken out that feature, because I know the Senator objected to that in the Rules Committee.

Mr. CANNON. On the copy I have, I think it is still here because it says:

(9)(A) The limitations on contributions to a candidate for Federal office imposed by paragraphs (1)(A) and (2)(A) of this subsection shall not apply in the case of contributions to any candidate who has filed a declaration as provided in paragraph (1)(B) or (2)(B) of section 330(a) or his authorized political committees if any other candidate for election to such Federal office has filed with the Commission a declaration as provided in paragraph (1)(A) or (2)(A) of section 330(a).

(B) The exception provided for in subparagraph (A) shall apply only to the extent that such contributions do not exceed the amount by which the greatest amount of intended personal expenditures declared by any candidate, as provided in paragraph (1)(A) or (2)(A) of section 330(a) with respect to a particular election, exceeds $35,000.

Is that still in the Senator's amendment?

Mr. JOHNSTON. That was not intended to be, and I would be glad to strike that if the Senator can accept it. I might point out——

Mr. CANNON. I do not think I could accept it anyway, but that is still in the amendment that was handed us as being the Senator's amendment. I do not think I could accept the proposition whereby we would say that we are told by the Court that we cannot limit the amount of an individual's own money that he can spend on a campaign. So we come in the back door and say, "All right, we cannot limit that amount, but we will require him to announce how much of his money he is going to spend, and if he announces that and then for some reason has to go over, decides he needs to go over that amount, he is then in violation of the law." I have serious doubt as to whether that could be held constitutional.

Mr. JOHNSTON. I understand we have been around this bush before, and I fail to follow the argument that to say when we do not limit him but when he limits himself and, in effect, has disclosure, predisclosure, as opposed to disclosure at a later time, that that somehow violates the law because we are limiting what he spends. He can put down anything he wishes and, indeed, the Senator in the original bill which was filed here had this predeclaration where a candidate had to state what he was going to spend. Was that not a part of the bill?

Mr. CANNON. Yes.

Mr. JOHNSTON. Will the Senator tell me what is the difference between his putting it in and my putting it in?

Mr. CANNON. We required the declaration, but there was no penalty if he exceeded that amount. That was the difference. We required him, we said, "You must state how much of your own money you will spend." This is in the interest of full disclosure. But we did not say he was in violation of the law if he spends over that, and he might inadvertently spend over it, and he would not have been in violation of the law. Yet the law says you cannot limit him in what he can spend.

Mr. JOHNSTON. The Senator agrees with me it is a good thing to require predisclosure?

Mr. CANNON. The disclosure I like, I am in support of it, and I think everyone ought to know what the candidates are spending. I favored a limit on what they could spend, as the Senator knows.

Mr. JOHNSTON. Very well.

We are in agreement that it is a worthy end. The Senator's only objection is that the court may find it unconstitutional.

Mr. CANNON. Well, not only the question of unconstitutionality, but I do not see it as being fair when the Senator says "We require him to declare." That I would have no problem with. But when the Senator says, "If he declares and then happens to exceed it or goes over that amount he is in violation of the law," I cannot buy that. If the Senator wants to require him to declare the amount of money he can spend, that I find no problem with.

Mr. JOHNSTON. Do you not think it is sort of putting the Government in league with helping enforce his official lie, if that is not too strong a word, by making his declaration when he has said, "I have declared I am not going to spend more than x dollars," and then he comes along and dumps a huge amount of his own personal wealth in at the last 3 or 4 days, and after the election is over, he won or lost, he says, "Sorry about that, guys. I changed my mind there at the last," and his opponent does not know anything about that?

Mr. CANNON. I think it is unfair. I would agree with the Senator. But I cannot go with the Senator on this kind of an approach to put him in violation of the law when the law says you cannot limit him.

Mr. JOHNSTON. I beg to disagree with the Senator. The law does not say that a man cannot limit himself.

Mr. President, I move to modify my amendment by deleting section 116, and renumbering the other sections successively.

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

Mr. JOHNSTON. Mr. President, I further move to modify my amendment in section 119 after the word "expenditure" and before the word "reported" add the words "in excess of the expenditure".

Therefore, the section would read as follows:

Any candidate—

The PRESIDING OFFICER. Is the Senator modifying his amendment?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. Will the Senator please send the modification to the desk.

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 66, after line 24, add several new sections, as follows:

"PERSONAL CAMPAIGN EXPENDITURES"

"SECTION 114. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

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

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister or such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part.".

"SEC. 115. Section 316(a) of the Act (2 U.S.C. 439 (a)) is amended by inserting "or declaration" immediately after "statement".

SEC. 116. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

SEC. 117. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

SEC. 118. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days before the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary election, whichever is earlier, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for

election to such office, personal expenditures in excess of, in the aggregate, $35,000, and a statement, under penalty of perjury, (i) of the source of such personal expenditures, (ii) of his intention and present ability to spend such funds, and (iii) that the purpose of such declaration is not to make inapplicable the contribution limitations otherwise applicable under paragraphs (1)(A) and (2)(A) of section 320; or

"(B) a declaration, under penalty of perjury, that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

SEC. 119. Any candidate who makes an expenditure in excess of the expenditure reported pursuant to section 118 shall be in violation of the act.

Mr. JOHNSTON. The last is simply a technical amendment.

Mr. President, I would like to ask for a rollcall vote. I know we do not have enough Senators on the floor at this particular time.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a comment?

Mr. JOHNSTON. Yes, I certainly will.

Mr. GRIFFIN. I want to indicate my agreement with the Senator from Louisiana. My only regret is that his amendment does not go further and also makes the same principle apply to independent expenditures in a campaign by special interest groups.

The Supreme Court has likewise indicated that independent expenditures cannot be limited as to amount, but I see no reason why the reporting, the disclosure, of the intention to make independent expenditures in a timely way could not be legislated by Congress. At least I think we ought to try that, and give the court an opportunity to draw some more reasonable parameters than now seem to be the case in the eyes of some Members of the Senate.

I can understand that nobody wants to enact unconstitutional legislation, and there is a question that can be raised, and undoubtedly will be raised, against the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. GRIFFIN. Could we have 3 minutes on the bill on this?

Mr. HATFIELD. I would be happy to yield the Senator 3 minutes on the bill.

Mr. GRIFFIN. I really believe we ought to give the Supreme Court more opportunity to look at this particular problem, which is one which, if we do not bring it under control, both with respect to personal expenditures of a candidate himself and independent expenditures of special interest groups, the other efforts we make here are really not going to be very effective.

For example, I think that is one of the main objections to the public financing approach, that it was rather meaningless to install public financing and put ceilings on what a candidate could spend when there is no real effort being made to curtail or limit expenditures that would be made by the outside special interest groups by way of independent expenditures and by way of personal funds of the candidate himself.

So I want the Senator from Louisiana to know he has a supporter in this particular effort.

Mr. JOHNSTON. I thank the Senator. To me it is perfectly clear that a disclosure in advance would be legal under the Supreme Court decision. We do not know that that is positive, and we do not know that many acts we pass here are positively going to be declared unconstitutional. But it is not something that has impeded this body from acting in other areas when they think they are right, and so when we think we are right, unless it is absolutely clear it is unconstitutional, unless it is passed in bad faith, knowing of its illegality, I think we ought to proceed.

EXECUTIVE SESSION—AGREEMENT WITH CANADA CONCERNING TRANSIT PIPELINES

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the Senate will go into executive session to vote on a resolution of ratification on Executive F, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

The question is on agreeing to the resolution of ratification on Executive F, 95th Congress, 1st session, agreement with Canada concerning transit pipelines.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Dakota (Mr. BURDICK), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY), is absent on official business.

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 "yes."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY), are necessarily absent.

The yeas and nays resulted—yeas 92, nays 1, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—92

Allen	Gravel	Moynihan
Anderson	Griffin	Muskie
Baker	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Johnston	Scott
Clark	Kennedy	Sparkman
Cranston	Laxalt	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Durkin	McGovern	Tower
Eagleton	McIntyre	Wallop
Eastland	Melcher	Weicker
Ford	Metcalf	Williams
Garn	Metzenbaum	Young
Glenn	Morgan	Zorinsky

NAYS—1

McClure

NOT VOTING—7

Abourezk	Goldwater	Percy
Bartlett	Humphrey	
Burdick	McClellan	

The PRESIDING OFFICER (Mr. FORD). Two-thirds of the Senators present and voting have voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION—PUBLIC FINANCING OF SENATE ELECTIONS

The PRESIDING OFFICER (Mr. FORD). Without objection, the Senate will return to legislative session and resume the consideration of S. 926, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the United States Senate.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON) as modified.

Mr. JOHNSTON. 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. CANNON. Mr. President, I move to reconsider the vote by which the motion to table amendment 709 was agreed to. I ask unanimous consent that that motion be in order.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, may we know——

The PRESIDING OFFICER. The Senator from Pennsylvania reserves the right to object. The Senate will come to order. Senators will take their seats and clear the aisles, so that the Senator from Pennsylvania can be heard.

Mr. HEINZ. Mr. President, could we know what that amendment is?

The PRESIDING OFFICER. It is the amendment of the Senator from Pennsylvania (Mr. HEINZ).

Mr. CANNON. The Senator from Nevada wants to make a motion to reconsider the vote by which the amendment of the Senator from Pennsylvania was tabled.

Mr. HEINZ. As I understand the Senator from Nevada is asking unanimous consent to make that motion?

Mr. CANNON. That it be in order to make that motion at this time.

Mr. HEINZ. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

Mr. CANNON. How much time do I have remaining on the Johnston amendment?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. CANNON. Mr. President, I believe the arguments have been made on this matter. I say to my colleagues we will vote very shortly. I intend to make a motion to table the amendment of the Senator from Louisiana.

Let me state very briefly I do not think we should make it a violation of the law for a Senator or a candidate for the Senate to do something that we cannot prohibit him from doing according to the Supreme Court. In other words, if the Johnston amendment were to carry, it would require a candidate to say that he would not spend more than x amount of his own money in the campaign. If he goes over that for any reason whatsoever, whether by inadvertence, deliberately, or by design, he would then be in violation of the law.

The Court has already said that we cannot limit the amount of his own money a person can spend in a campaign. We would be in a rather anomalous situation where the court says, "You cannot limit the amount of money a man can spend but you can tell him he has to declare what he intends to spend, and if he spends over that amount he is in violation of Federal law." I do not see the equity of that.

If the Senator wants to make a response, I will permit him to do so on my time and then I will yield back the remainder of my time.

Mr. JOHNSTON. I thank the Senator from Nevada. If Senators will give me their attention for 1 minute, this is a very simple amendment.

The PRESIDING OFFICER. The Senator will suspend. May we have order in the Chamber? I ask the members of the staff to clear the aisle.

The Senator may proceed.

Mr. JOHNSTON. Mr. President, the committee, the Senator from Nevada, and almost everyone I know thinks there ought to be a declaration by a candidate as to how much of his own money he is going to spend in a race. Indeed, that provision is already in the bill.

What my amendment does is to say that within 60 days of the election or within 5 days of qualification, whichever is later, a candidate shall declare how much of his own money he is going to spend in excess of $35,000—he gets $35,000 free—and whatever he imposes on himself as his own limit he cannot exceed.

What this amounts to, Mr. President, is predisclosure, disclosure at a time when it can do some good. It does not do any good to say after the election that he exceeded his limits. It does not do any good to say after the election that he intended not to spend more than a certain amount but he went ahead and spent it anyway.

What we are saying is disclosure at a time when it can do some good. I submit that it is a good end, and it is entirely constitutional. I hope the Senate will go along with the amendment.

Mr. CANNON. Mr. President, I yield back the remainder of my time and move to table the amendment of the Senator from Louisiana. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to table the amendment of the Senator from Louisiana (Mr. JOHNSTON). The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. ABOUREZK), are necessarily absent.

Mr. BAKER. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

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

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—55

Allen	Glenn	Muskie
Baker	Hansen	Nelson
Bartlett	Hart	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield	Pearson
Brooke	Hathaway	Pell
Byrd, Harry F., Jr.	Hayakawa	Randolph
Byrd, Robert C.	Heinz	Schmitt
Cannon	Helms	Scott
Chafee	Inouye	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Lugar	Stevenson
Danforth	Magnuson	Thurmond
Dole	Mathias	Tower
Durkin	McClure	Wallop
Eastland	McGovern	Williams
Garn	McIntyre	Young
	Metzenbaum	

NAYS—40

Anderson	Griffin	Moynihan
Bayh	Haskell	Proxmire
Biden	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Roth
Case	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schweiker
Curtis	Leahy	Stone
DeConcini	Long	Talmadge
Domenici	Matsunaga	Weicker
Eagleton	Melcher	Zorinsky
Ford	Metcalf	
Gravel	Morgan	

NOT VOTING—5

Abourezk	McClellan	Stevens
Goldwater	Percy	

So the motion to lay Mr. JOHNSTON'S amendment on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDENT OFFICER. The Senator from Louisiana.

Mr. CANNON. Will the Senator yield for one moment?

Mr. JOHNSTON. Yes.

AMENDMENT NO. 709

Mr. CANNON. Mr. President, I move to reconsider the vote by which unprinted amendment No. 709 was tabled.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 711

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 711.

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

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

The amendment is as follows:

On page 66, after line 24, add several new sections, as follows:

"PERSONAL CAMPAIGN EXPENDITURES

"SECTION 114. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

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

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses

of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part.".

SEC. 115. Section 316(a) of the Act (2 U.S.C. 439(a)) is amended by inserting "or declaration" immediately after "statement".

SEC. 116. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

SEC. 117. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

"SEC. 118. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days after the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary election, whichever is later, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000,

"(B) a declaration that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for election to such office, personal expenditures in excess of, in the aggregate, $35,000,

"(B) a declaration that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Maine.

Mr. DANFORTH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana has yielded to the Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Madeleine Albright of my staff be granted the privilege of the floor during debate on S. 926.

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

Mr. JOHNSTON. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Chris Brewster of my staff be granted privilege of the floor.

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

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment I have sent to the desk is the same amendment without the penalties. In other words, it requires the declaration. The original bill with title I had required that declaration, but when title I was deleted yesterday the declaration of a candidate as to how much of his own money he was going to spend was also deleted.

This amendment puts that declaration back into the law, but it provides no penalties at all.

So that if a man says he is going to spend $100,000 and circumstances change or he changes his mind, then he can with impunity exceed those limits.

I hope now the committee can accept it.

Mr. CANNON. Mr. President, I have always supported the full disclosure concept. I think this gets around the objections I had to the earlier amendment because it does not make him in violation of the Federal law. It does not do indirectly what we cannot do directly under the Supreme Court decision.

I am willing to accept the amendment of the Senator.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. Is all time yielded back?

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

Mr. JOHNSTON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Shapiro of my staff be granted privilege of the floor during the course of consideration and voting on the pending legislation.

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

UP AMENDMENT NO. 712

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment No. 712.

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

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

The amendment is as follows:

On page 71, after line 4, add the following:

SEC. 303. Section 14(c) of the Voting Rights Act of 1965 is amended by striking paragraph (3) and inserting the following new paragraph in lieu thereof:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

Section 203 of the Voting Rights Act of 1965 is amended by striking subsection (3) and inserting the following new subsection in lieu thereof:

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

The PRESIDING OFFICER. The Chair would ask the Senator from Oklahoma, is this one of the amendments to be lumped together under 1 hour?

Mr. BELLMON. This is not. This is another amendment.

The PRESIDING OFFICER. The Senator will proceed.

Mr. BELLMON. Very briefly, Mr. President, what this amendment does is add this language, "and whose dominant language is other than English" to the existing law.

The existing law requires that when more than 5 percent of the voters in a precinct are of American Indian, Asian-American, Alaskan Natives, or of Spanish heritage, then the ballots in that precinct must be printed in English and in the language of the minority language groups.

In the State of Oklahoma, as well as in many other areas of the country, we have large numbers of Americans of American Indian, Asian, Alaskan or Spanish extraction, who no longer speak the old language, but who speak English and who have in many cases not the ability to read or to speak in the old language.

In the State of Oklahoma it is a particular problem because we have 60 Indian tribes. In many cases, the Indians do not any longer use their old language, and it is a great burden upon the election officials to require that the ballots be printed in those languages and then to require there be interpreters to help the voters on election day.

Mr. President, in 1975 when the Senate passed the voting rights extension bill, I warned that it contained a provision which was totally unnecessary and which, if not removed, would prove to be both burdensome and costly in future elections. I refer to the requirement that political subdivisions conduct bilingual

elections even though there is no single language minority.

At that time I sought to amend the bill to correct what appeared to be an oversight. The purpose clause of the bill referred to the need to prevent voting discrimintion against citizens of language minorities "from environments in which the dominant language is other than English." However, the qualifying phrase, "whose dominant language is other than English" was missing from the definition sections stating which minority groups would be covered. My amendment simply sought to add those words.

My amendment was defeated, the bill was passed and signed into law and the Department of Justice went to work to enforce its provisions.

For the benefit of those who chose not to heed my warning, I would like to touch briefly on what has taken place since the bill became law.

The Census Bureau determined that political subdivisions in 26 States would be required to conduct bilingual elections and otherwise provide special assistance to minority group voters. These groups included Spanish-speaking Americans, Asian Americans, Alaskan Natives, and American Indians.

Under the Census Bureau finding, seven States were required to provide the special assistance statewide. These States are: Alaska, Hawaii, Arizona, California, Colorado, New Mexico, and Texas. In the remaining States, some 270 counties fell under the guidelines. Those States are: Connecticut, Florida, Kansas, Louisiana, Minnesota, Mississippi, Montana, Maine, Nebraska, Nevada, North Dakota, New York, North Carolina, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

In Oklahoma, 25 of the State's 77 counties come under the provisions of the 1975 act—two because of Spanish language minorities, the remainder because of their Indian population.

This law has been a particularly difficult problem for Oklahoma because more than 60 Indian tribes are represented in my State, and some of the tribes have more than one native language. But because Indians do not live on reservations in Oklahoma and have comingled with the rest of the population, they are accustomed to speaking and writing English. Few Oklahoma Indians can even understand their tribal language because it is no longer used. Many tribes do not even have a written language.

A census of the Choctaw Nation conducted by Oklahoma State University in 1975 showed that less than 1 percent of the population did not speak English. All were in one county, McCurtain, and were over 65 years old.

In spite of the fact that English is the dominant language among Oklahoma Indians, and that tribal elections are conducted in English, Oklahoma election officials were confronted with an impossible situation in locating, transporting and paying translators to comply with the law.

A good example of the difficulty faced by Oklahoma election officials is Sequoyah County. According to the Census Bureau, Sequoyah County has around 1,900 Cherokees, plus a few Creeks, Alabamas, Coushattas, Kaws, Omegas, Osages, Poncas, and Quapaws—nine different tribes. The county has 36 precincts, which means that to be in full compliance with the law, up to 324 interpreters would be needed to cover all the polling places.

A. J. Henshaw, Jr., secretary of the Sequoyah County Election Board, explained his plight in a letter to State Senator James E. Hamilton:

> The procedures this county must adopt to comply with this Act are a financial burden our county is not able to bear," Henshaw wrote. "The minimum amount the Election Board could pay these people is $17 per day, plus mileage, assuming you could get the interpreters to work 12 straight hours for that amount. The cost for the interpreters for just one election would be in excess of $6,000.

Henshaw stated further:

> To find the 324 people who speak all of the respective languages that the Census Bureau alleges we have is virtually impossible.

Yet, Senator Hamilton has told me, representatives of the Justice Department have, in effect, threatened law suits against the individual election board workers if any of them fail to comply with this Federal edict.

Another election board secretary, Glenn Wood of Pawnee County wrote Assistant Attorney General J. Stanley Pottinger concerning the experience in his county in attempting to abide by the law in a city of Pawnee special election last November:

> After considerable searching, we finally found five Indians, one each of the five precincts in the city of Pawnee, who claimed they could speak both dialects of the Pawnee language, thus qualifying as interpreters for this election," Wood wrote. "Of 1,300 registered voters, we had a total vote cast of 825 of which 25 were Indians, none of whom requested or needed assistance in voting their ballot.

Wood said that in giving the interpreters their instructions prior to election day, they were asked for comments on the new law:

> Each of them made a very definite statement, stating in their opinion the law was ridiculous, not needed and an insult to the intelligence of the American Indian," Wood said. "They called attention to the fact that when they held their tribal elections all ballots and other materials necessary to the conducting of the election are printed in the English language only, and no effort is made to provide interpreters, due to the fact there are no Indians, at least in this area, but what understand and speak the English language.

The Mayes County Election Board secretary, Hetta Morgan, wrote me that the election officials in that county believe the bilingual election requirements are "an atrocious expense and certainly not a feasible or economical plan for our taxpaying people in Mayes County."

Oklahoma Indian tribal leaders are equally critical of the new law. When I explained the bill's provisions to Slyvester Tinker, chief of the Osages, he was amazed. He told me that although far more than 5 percent of the voting age citizens in Osage County are Osage Indians, only a very few members of the tribe can read or speak the Osage language. Even as chief of the tribe, Tinker has difficulty himself in reading the Osage language although he can speak it fluently. Overton James, governor of the Chicaksaw Nation, wrote me that—

> In the Chickasaw Tribe, we have so few (in fact, I doubt any) who cannot read and understand English that it would be insignificant.

The Oklahoma State Election Board in 1976 conducted a survey concerning the implementation of the 1975 amendments to the 1965 Voting Rights Act in the 25 counties in Oklahoma affected by the act. Lee Slater, election board secretary, sent me a summary of the survey findings:

> School elections conducted throughout Oklahoma on January 27, 1976, presented the first opportunity for elections to be held simultaneously throughout the state since the Voting Rights Act became effective in those 25 counties.
>
> A total of 246 polling places were used for the school elections in the affected counties, and 42,154 persons cast ballots. Of that number, a total of 22 (Indians) requested assistance.
>
> County Election Boards provided a total of 116 interpreters—including 39 for Cherokee, 32 for Choctaw, 25 for Creek, six for Cheyenne, five for Chickasaw, three for Seminole, and one each for Apache, Shawnee, Spanish, Osage, Seneca-Cayuga and Pawnee.
>
> Of those requesting assistance, 15 requested assistance in Cherokee, six in Choctaw and one in Apache.
>
> A total of $1,637.60 was paid to these interpreters. That figure does not include the cost of printing materials in Spanish, of meetings by the County Election Boards and other costs which probably tripled or quadrupled the total cost. As you can see, that is a very high cost per voter using the service.

In 1976, I wrote the election officials in the 29 other States covered by the act to inquire whether they had encountered the same problems as Oklahoma. Of the 20 States which responded to my inquiry, only one was positive toward the law. Fifteen indicated serious problems with the law and the other four had not formed a final judgment.

Mr. President, I believe there is ample evidence, in many of the States, to illustrate the absurdity of the bilingual provisions of the Voting Rights Act. It is a situation similar to that of the Boy Scout who sought to do a good deed by helping an elderly woman across the street. The problem was, she did not want to go.

Congress, through its failure to correct a technical error in the drafting of this law, has forced election officials in 26 States to provide assistance that is unneeded and unwanted, and which imposes an unnecessary additional burden upon the taxpayers of those States.

We should act now to rescind this legislative mistake by enacting my amendment.

This amendment will simply clarify the sections in titles II and III of the Voting Rights Act, defining the term "language minorities," by adding to the various groups listed—American Indians, Asian Americans, Alaskan Natives, and Americans of Spanish heritage—the qualifying phrase: "and whose dominant language is other than English." This clause more properly defines those single language minorities who should be sub-

ject to protection under the Voting Rights Act.

It should be emphasized that the language added by this amendment is not foreign to the bill. The phrase, "and whose dominant language is other than English," is identical to the purpose clause of the act which states:

The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English.

In addition, it should be noted that Senator STEVENS' amendment adding this identical language to the minority group "Alaskan Natives" was eventually accepted during floor debate on the Voting Rights Act. I am merely asking that this modification be extended to all groups.

The goal of the new bilingual provisions is a good and just one—to insure that no citizen is denied the right to vote because his dominant language is other than English. I fully support this goal and the remedial device, bilingual elections, as a means to guarantee full participation and equal voting rights.

However, there is one major flaw in these provisions. Because of the absence of the qualifying language from the purpose clause, "and whose dominant language is other than English," many political subdivisions are forced to conduct bilingual elections even though there is no single language minority where 5 percent of the voting age citizens have a dominant language other than English.

The way to prevent this from occurring is for the Congress to adopt the language of my amendment, which will insure that the costly and burdensome bilingual registration and voting mechanism will only be applied where there is an actual need to assure citizens' voting rights because of an English deficiency.

State Senator Hamilton, a former president pro tempore of the Oklahoma State Senate, told me that if this law remains unchanged, he feels that mass resignation will result among election officials in Oklahoma. These officials know that they cannot comply with the law and simply will not take a chance on being sued by some Federal official because of their inability to do the impossible.

This change will strengthen the act. The remedies and triggering provisions will remain intact. No instance of voting discrimination cited in either the House or Senate reports will fail to be corrected because of the adoption of this amendment. I urge its approval.

Mr. President, I ask unanimous consent to have letters from various election officials in different States of the Union printed in the RECORD at this time.

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

OFFICE OF THE LIEUTENANT GOVERNOR,
Honolulu, Hawaii, June 24, 1976.

Hon. HENRY BELLMON,
U.S. Senator, Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: May I thank you for your letter of June 18, 1976. I was happy to discover that the Association of Clerks and Election Officials of Hawaii has at least one ally in Congress that concurs with our position on the multi-lingual provision of the Voting Rights Act Amendments of 1975. We likewise feel that this provision should be repealed or at least amended to make it more practical and realistic. Although we have not as yet held an election under the Voting Rights Act, we have already experienced many difficulties with it.

You are probably aware that we have to provide language assistance to the Filipinos, the Chinese and the Japanese in the State of Hawaii for the upcoming elections, and to provide this assistance, we estimate that it will cost the state and county governments between $500,000 and $750,000. We have some serious doubts about the cost-effectiveness of this voters' assistance program, but we have no choice but to comply because we have been mandated to do so by the act.

We feel that the expanded part of the Voting Rights Act Amendments of 1975 was very poorly drafted and problems that are now arising were given very little consideration, if any at all. Firstly, the act states that the coverage extends to four groups, one of which is the Asian-Americans. Lacking an adequate definition of an "Asian-American," the Justice Department determined that it should be broken down into sub-groups composed of the Japanese, the Chinese, the Filipinos and the Koreans. Consideration was never given to the various languages and/or dialects spoken within these sub-groups. For instance, there are three predominant languages spoken by the Filipinos in Hawaii—Ilokano, Tagalog and Visayan. If we break these three "single-language groups" out individually, the mathematics would be such that these groups would not fall under the coverage.

Secondly, the act defines "an illiterate" as a person who failed to complete the fifth elementary grade in any school. This definition is very arbitrary and discriminatory. There are many individuals who have had no formal education that have learned to read and write the English language. Many naturalized citizens would fall into this category. Excepting for an individual who was over 50 years old on December 24, 1952, and had at that time been living in the United States for at least 20 years, all applicants for naturalization must be able to speak, understand, read and write the English language.

Thirdly, the term "single-language minority group" is very ambiguous. For instance, although the Chinese have been covered as a sub-group, a large majority of their group is only English-speaking or bi-lingual, with a very small minority being able to speak, read and write the Chinese language only. Again, the mathematics would be such that if only the uni-lingual individuals were considered under the "single-language minority groups," none of the racial groups in our state would be covered. The mistaken assumption made in the act is that "ethnicity" is synonymous with a "single-language minority group". In elaborating further on that point, permit me to explain that my ethnicity is Japanese. Therefore, I am included in the statistical number of Japanese that make up more than 5% of our total voting age population. However, I can only speak, read and write English and some French. I cannot speak, read, write nor understand the Japanese language. There are countless numbers of other individuals who have likewise been included in the statistics which have resulted in the coverage of these racial groups.

One of our own employees came from the town of Santa, a province of Ilocos Sur in the Philippines three years ago, where the Ilokano language is predominantly spoken. He stated that it is quite ironic that where their elections were held in English in the Philippines, he can vote an Ilokano ballot in the United States. Furthermore, some individuals who are part of these language minority groups have considered it an insult that these special voting assistances have to be rendered to their racial group.

Fourthly, the act has put a very heavy financial burden on all the jurisdictions that are covered under its provisions. As stated previously, it will cost the state and county governments of Hawaii upward of a half a million dollars, and these are monies which were not budgeted for. Furthermore, we may be forced to curtail some of our voter registration and "get-out-to-vote" programs because the requirements to provide multi-lingual assistance may make their costs prohibitive. In effect, this act may work against the intent to encourage maximum participation in the electoral process by the citizens of our state and county. We also strongly feel that the federal government should bear all of the expenses that have fallen upon every jurisdiction that has been mandated to comply with the provisions of the Act.

We have enclosed a rough draft of one part of our upcoming general election ballot for the City and County of Honolulu. You will notice for yourself that incorporating the three required languages on the same ballot makes it very cluttered and confusing. In attempting to aid a very small number of voters, the vast majority of voters may be adversely affected. There are other problems that we are encountering in our attempts to comply with the act; however, these that are abovementioned should give you a pretty good picture of the reasons for our opposition to it.

I would like to emphasize that we are not opposed to the intent of assisting voters who truly need language assistance in voting, because we feel that we should extend to them the fullest opportunities of their voting privilege. If we are made aware of the needs of these individuals, we are willing to work with the respective ethnic organizations in holding multi-lingual voting workshops, in embarking on publicity campaigns through the various media and in developing other effective programs. However, we are opposed to the practice of spending huge sums of money which will result in minimal benefits. The results of bilingual and multi-lingual elections in other states have already shown that the cost-effectiveness of the implementation of the requirements of the act is highly questionable.

In an attempt to reverse the trend of declining voter participation in our nation, we have moved out in two areas. Firstly, we have recently hired an individual to work with various racial groups and individuals to render voting assistance and education. Secondly, we have developed a unit of study that has been implemented in the high school civics classes entitled "Voter Education and Citizenship Responsibility." We have gotten very good responses from the students and teachers on the unit of study. Our long range goal is to develop similar units of studies that will be geared to junior high and elementary levels. We feel that the earlier citizen responsibility can be ingrained into a child's mind, the greater the chances that that individual will participate in the electoral process as an adult. Therefore, we would suggest that Congress should perhaps re-evaluate its legislations and programs in any effort to bring about greater voter participation.

If I can be of any assistance to you in effecting any amendments to the act or to have the multi-lingual provisions of the bill repealed, I would be willing to testify at a hearing or to supply a supportive statement.

I would appreciate your continued contact with me on this matter.

With warmest aloha, I remain,

Sincerely yours,

MORRIS T. TAKUSHI,
Election Administrator.

This ballot was printed in various languages:

Official Ballot

GENERAL ELECTION

Tuesday, November 2, 1976

Amendments to the State Constitution proposed by the Legislature State of Hawaii.

Vote Both Sides (Over)

This stub shall be removed by the ballot.

Vote your choice on the question below:

(1) Shall there be a convention to propose a revision of or amendments to the Constitution? Yes —; No —.

(2) Shall the amendment to article VIII, section 4, of the Constitution of the State of Hawaii to allow the State to engage in the provision of housing, in slum clearance, and in the rehabilitation of housing be adopted? Yes —; No —.

STATE OF NEW MEXICO,
Santa Fe, July 6, 1976.

Hon. HENRY BELLMON,
U.S. Senator, Oklahoma,
Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: It has always been our contention that New Mexico should not have been included under provisions of the Federal Voting Rights Act, as amended, 1975. On the whole, New Mexico has had a consistently high percentage of voters of Spanish-American descent. Historically, Spanish Americans do participate in local, state and national elections in large numbers.

The 1975 amendments have created unnecessary financial burdens on the office of the Secretary of State, all county clerks and the taxpayers of the State of New Mexico. Election printing costs have more than doubled as a result of these requirements.

It is my feeling that the 1975 amendments were ill-conceived and that the triggering mechanism for inclusion was overly broad. I am not totally convinced that the methods for increasing participation of language minorities in the electoral process have been particularly effectual under the Act.

Indian languages in New Mexico are historically unwritten. It should be mentioned that most of the Indian dialects are considered sacred. Special permission must be obtained from the various Indian leaders in order to use many of the Indian dialects on radio or elsewhere. To comply with the provisions of the Act, two Indians, Mr. Vernon Benn and Ms. Anahwake Nahtanaba, have been hired as members of my staff to serve as coordinators of the oral assistance program in the six New Mexico counties covered under the Act.

However, we feel that a concentrated voters' registration, voters' education and voters' assistance program would be a better approach to aid Indian voters. It is my intention, therefore, to go before the 1977 Legislature to request funds to conduct registration drives in English for Indians throughout the State. The primary objective of this program would be to encourage Indians of every county, rather than only the counties specified under the Federal Voting Rights Act, and particularly 18-year-olds, to register and vote.

Mr. Vernon Benn of my staff would be available to testify concerning successes and problems encountered as Federal Voting Rights Act coordinator for the Navajos, the Jicarilla Apaches and Zunis in New Mexico.

Sincerely,

ERNESTINE D. EVANS,
Secretary of State.

STATE BOARD OF ELECTIONS,
Pierre, S. Dak., July 9, 1976.

Hon. HENRY BELLMON,
Russell Building,
Washington, D.C.

DEAR SENATOR BELLMON: Thank you for your letter of June 18 in which you requested comments on the Voting Rights Act Amendments of 1975.

Much criticism has also been raised in South Dakota concerning implementation of the "language minority" provisions of the above mentioned Act.

For your information, I have enclosed a copy of a resolution passed by the South Dakota State Board of Elections. As you can tell by its contents, the general feeling in South Dakota is comparable to that in Oklahoma.

Either myself or a member of the State Election Board would be most willing to testify at a hearing on the above mentioned topic.

Sincerely,

(MRS.) LORNA B. HERSETH,
Secretary of State.

STATE OF SOUTH DAKOTA

A RESOLUTION PERTAINING TO THE VOTING RIGHTS ACT AMENDMENTS OF 1975

Whereas, The United States Congress has passed the Voting Rights Act Amendments of 1975, Public Law 94–73; and

Whereas, Several South Dakota counties are covered under this Act which are contained in several of the nine South Dakota Indian reservations; and

Whereas, These counties must therefore provide oral assistance to any Indian registering and voting; and

Whereas, An investigation was made into the need of such interpreter, proficient in both the English language and local Sioux dialect and it was found that those Indian people who still use the local Sioux dialect are actually more proficient in the English language both in written and spoken form; and

Whereas, All Tribal elections held throughout the state of South Dakota are conducted in the English language, and it is almost impossible to find interpreters proficient in both the English language and local Sioux Dialect; and

Whereas, Such Tribal officials did not feel such interpreters were necessary and in some cases resented the implication of the Act; now therefore, be it

Resolved, That the South Dakota State Board of Elections and the South Dakota Secretary of State do hereby urge the Congress of the United States to re-evaluate the Voting Rights Act Amendments of 1975 so that the criteria for coverage under the Act more fairly represents and portrays the individual circumstances and needs of each State.

STATE OF WYOMING,
Cheyenne, June 30, 1976.

Hon. HENRY BELLMON,
U.S. Senator from Oklahoma, Russell Building, Washington, D.C.

DEAR SENATOR BELLMON: We are pleased to respond to your letter concerning the implementation of the 1975 Amendments to the Voting Rights Act.

In Wyoming five of the 23 counties are covered under the Act, four of the Spanish Heritage Group and one county under the American Indian Group.

The 1976 State Legislature refused to appropriate funds for the printing of election materials in a second language. Our office requested funds for the printing of the Voter's Guide, Constitutional Amendment pamphlets and absentee ballot envelopes in Spanish.

Like Oklahoma we have had minority citizens express that it is an insult to have a separate ballot and furthermore, we find that often minority citizens neither read or write their own language. In Wyoming the two Indian Tribes do not have a written language.

We certainly agree that bilingual election materials and assistance should be provided only where actually needed. However, with the law as it exists today, we feel that the Wyoming counties can most effectively meet the federal mandate by adopting a "targeting" plan. This would provide election materials and assistance in the minority language to those persons needing assistance, as opposed to "blanketing" or the mass broadcasting of materials. Our office has met with the Arapahoe and Shoshone Tribal Councils and the five county clerks on implementing a "targeting" plan.

Concerning the costs for holding bilingual elections, we estimate that the federal requirement has likely doubled costs. Since election costs are born at the local level, you may wish to contact the county clerks for actual costs. A list of the county clerks is enclosed for your use.

I would be pleased to support your proposed legislation; however, I think you would find the experiences of the county clerks most supportive since they are charged with conducting elections in Wyoming.

Sincerely yours,

THYRA THOMSON,
Secretary of State.

STATE OF COLORADO,
Denver, June 24, 1976.

Sen. HENRY BELLMON,
U.S. Senate, Committee on Appropriations, Washington, D.C.

DEAR SENATOR BELLMON: In answer to your letter of June 18, I submit the following:

In our city elections which were held statewide in the fall of 1975, less than 50 people throughout the state requested a Spanish ballot or oral assistance at the polls. Thirty-four of our sixty-three counties are covered under the bilingual requirement and represent about 70 percent of the electorate. The Spanish people in many instances feel they are being "singled out."

Most election clerks in bilingual areas tell me that their election costs are double what they were formerly.

At the state level the cost has risen also. Translations and interpretations have been modest, but our big expense will be in the additional printing costs and publication of amendments bilingually for the General Election.

In my estimation, this law should never have been inflicted on the taxpayer, and should be repealed at the earliest opportunity.

Enclosed are comments from City Clerks and one newspaper.

Sincerely,

JAMES L. EITEMILLER,
Elections Director.

Mr. BELLMON. Mr. President, I have discussed the amendment with both the author of the bill and the ranking Member. I believe they find some merit in the proposal.

Mr. CANNON. Mr. President, I have discussed this amendment with the Senator from Oklahoma. I think it is a good amendment.

I believe I raised this question once before when we were considering the Voting Rights Act. It is not only true in his State, but many other States where the dominant language is English.

It is very difficult to have a dialect, an Indian or some other dialect, printed on the ballot and have interpreters there. I see no reason for it where the

dominant language is other than English.

I would support the amendment.

Mr. HATFIELD. Mr. President, I would like to cite one example to support the Senator from Oklahoma's amendment.

In Malheur County in the State of Oregon in the last year, 1976, the county spent $4,908.17 to print Spanish ballots. In their 30 precincts, only 13 such ballots were asked for and used in the 1976 elections, which meant they cost on an average of $370 each.

So I think, as long as it does include the printing of such ballots in other languages where there is predominant use of that language, that this provides for more flexibility. I am happy to support the amendment.

The PRESIDING OFFICER. Is all time yielded back?

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

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I have another amendment at the desk, and I ask that it be stated.

There are actually four of these.

The PRESIDING OFFICER. The Chair asks the Senator from Oklahoma, Is this the group of four amendments where there was a 1-hour time agreement on all four?

Mr. BELLMON. That is correct.

The PRESIDING OFFICER. Will the Senator identify the amendment?

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

The PRESIDING OFFICER. On whose time?

Mr. BELLMON. On my time.

The PRESIDING OFFICER. The Senator has no time.

Mr. BELLMON. The minority time.

The PRESIDING OFFICER. There is no time until the amendment is offered.

Mr. HATFIELD. Mr. President, I yield 3 minutes on the bill.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum on the time that has been yielded by the Senator from Oregon.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT Nos. 600, 601, 602, and 603

Mr. BELLMON. Mr. President, I call up amendments numbered 600, 601, 602, and 603.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc, and the amendments will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes amendments numbered 600, 601, 602, and 603.

The amendments are as follows:

On page 41, strike out all beginning with the comma on line 25 through "election" on page 42, line 4.

On page 42, strike out all beginning with the comma on line 14 through "election" on line 18.

On page 44, strike out all beginning with the comma on line 24 through "election" on page 45, line 3.

On page 45, strike out all beginning with the comma on line 9 through "election" on line 13.

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

Mr. BELLMON. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Ann Schlesinger and Claire Anderson, of my staff, have the privilege of the floor during the consideration of this bill.

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

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Bob Haught, of my staff, have the privilege of the floor during the consideration of this bill.

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

Mr. BELLMON. Mr. President, I am going to read from S. 926, on page 41, beginning on line 19:

The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate or a political committee of a political party in rendering voluntary personal services on the individual's residential premises for candidate-related or political party-related activities, to the extent that the cumulative value of such activities by such individual on behalf of any candidate or political committee of a political party does not exceed $500 with respect to any election;

Mr. President, it seems to me that this language, which would prohibit the provision of any kind of campaign activity by an individual in that individual's premises, in excess of $500, is impossible to administer and is grossly unfair. I do not know how anyone could properly evaluate the cost, say, of a barbecue which some rancher might wish to provide on his ranch for a candidate he wishes to support. Who is going to say what the value of an animal might be that is driven in off the range and slaughtered and barbecued, or how much the actual use of the ranch might be worth, or what the actual value might be of the rancher's time in making the preparations for the event?

It seems to me that we are going entirely too far when we say to an American citizen that it is legal or improper for that citizen to support political activities on his own property, if someone figures that the value of the contribution that that person is making exceeds $500.

I do not know that this kind of activity has that much effect on the election processes of the country, but it seems to me to be an unnecessary and totally unenforceable limitation which is not needed and one which would better be stricken from the act.

The same provision occurs on page 42 and again on pages 44 and 45 of the act. My amendments would strike all the limitations of $500 and make it possible for a person to conduct this kind of activity without that limitation being in place.

Page 45, beginning on line 6, reads:

Any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate or a political committee of a political party, to the extent that the cumulative amount for such individual incurred with respect to such candidate or committee does not exceed $500 with respect to any election;

That provision would make it impossible for a volunteer, on his own, to work for a candidate if the value of the volunteer's services exceed $500. Again, I think it is unenforceable and unnecessary and that the act would be better off with that language stricken.

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

Mr. CANNON. Mr. President, I missed part of the Senator's statement.

Do I correctly understand that this is the amendment we discussed earlier, which would change the limit of an individual contribution by way of goods and services or foods provided?

Mr. BELLMON. That is correct.

Mr. CANNON. Does this leave any limit at all?

Mr. BELLMON. That would remove the limit. The law, as it now stands, limits those contributions to $500.

Mr. CANNON. Would this not open the doors to possible violations or to violations of the intent of the act, by saying that if a person went out and got a number of others and all of them said they would hold a party for him and might put up a party that cost $5,000, you could have that done 10 or 20 times in a State?

I do not believe it would be in line with the intent of the act. The dollar limit provides the problem. I wonder whether we would be better off to raise the dollar limit to a specified figure.

Mr. BELLMON. I would agree that it would help the act if the dollar figure were raised. But I simply raise the question as to whether or not the events that supporters hold in their residential premises, as the law described it, really have that much impact on the outcome of an election. Normally, in my experience, people who come to those events are for the candidate, anyway.

To limit what a person can do in his individual residence in connection with the candidate's activities, it seems to me, goes far beyond anything that is necessary to preserve the fairness of the electoral process in this country. Suppose someone gives a party which costs $5,000, which would be lavish by Oklahoma standards. I doubt that that would have much impact on the voters on election day.

Mr. CANNON. The point is that if the limit is taken off, it could lead to abuses by, say, 10 people giving a party on which there was no limit and raising it

very substantially. It would make me a little uncomfortable, with that kind of openended proposition.

If the Senator wanted to change it, perhaps to make it $1,000, which is doubling the amount, I think I probably could accept that.

That, likewise, would tie into the amount of an individual contribution as well, which is a limit of $1,000. If the Senator would go to the $1,000 figure and say that a person could spend only up to $1,000 for these exempt items, and we already have limited him as to the amount he can contribute, I think that would make it somewhat consistent.

Mr. BELLMON. Mr. President, does the Senator from Oklahoma need unanimous consent to so modify the bill?

Mr. CANNON. Yes.

UP AMENDMENT NO. 713

Mr. BELLMON. Mr. President, I ask unanimous consent to modify the bill so that where the figure $500 occurs, it be raised to $1,000 on pages 41, 42, 43, and 45.

The PRESIDING OFFICER. Does the Senator make that as a unanimous-consent request?

Mr. BELLMON. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment is agreed to.

Mr. BELLMON. Mr. President, I am willing to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time. The amendment is acceptable. I think that is consistent with the $1,000 limit on contributions that is in the present law.

The amendment as agreed to by unanimous consent is as follows:

On page 42, line 3, strike "$500" and insert in lieu thereof "$1,000".

On page 42, line 17, strike "$500" and insert in lieu thereof "$1,000".

On page 43, line 2, strike "$500" and insert in lieu thereof "$1,000".

On page 45, line 2, strike "$500" and insert in lieu thereof "$1,000".

On page 45, line 12, strike "$500" and insert in lieu thereof "$1,000".

Mr. BELLMON. I ask unanimous consent to withdraw my four amendments being considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BELLMON. Let me see if I understand the situation: The four original amendments by the Senator from Oklahoma have now been withdrawn, and the figures of $500 where they appear on those pages in the bill have been increased to $1,000 by unanimous consent as set out in unprinted amendment No. 713.

The PRESIDING OFFICER. That is correct.

Mr. BELLMON. I thank the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CANNON. Mr. President, I suggest the absence of a quorum. I am sure there are other amendments.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, there are a good many more amendments that were enumerated on yesterday. In order to expedite the action on the bill, I would suggest the cloakrooms announce to Senators that the managers of the bill are here and waiting on amendments to be called up, otherwise the bill will go to third reading.

The PRESIDING OFFICER. The cloakrooms will be so notified.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum and I ask that the time be charged against both sides on the bill.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, it is the intention of the leadership to finish action on this bill today so we can either finish it late or we can finish it very late. I hope Members who have amendments will come to the floor and call them up.

I suggest the absence of a quorum under the same conditions.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENSON. Mr. President, I ask unanimous consent that Bruce Hubbard of my staff be permitted the privileges of the floor during the consideration of this amendment and also amendment 692 which I intend to offer.

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

AMENDMENT NO. 691

Mr. STEVENSON. Mr. President, I call up my amendment No. 691.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON), for himself, Mr. BENTSEN, and Mr. HARRY F. BYRD, JR., proposes amendment numbered 691.

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

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

The amendment is as follows:

On page 61, between lines 5 and 6, insert the following:

"(2) by striking out in the first sentence 'may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office,';

"(3) by striking out 'him' immediately before 'to any organization' in the first sentence and inserting in lieu thereof 'such candidate or individual, as the case may be,';".

On page 61, line 11, strike out "(2)" and insert in lieu thereof "(4)".

On page 61, line 11, strike out "(3)" and insert in lieu thereof "(5)".

On page 61, lines 12 and 13, strike out "does not include" and insert in lieu thereof "includes".

Mr. STEVENSON. Mr. President, this amendment would prohibit the use of campaign contributions to defray the ordinary and necessary expenses of Federal office.

This issue was discussed at length during debate on the Code of Official Conduct for the Senate.

The amendment that I offered to proposed rule XLVI of the Code of Official Conduct then prohibited the use of contributions to pay official expenses, and it failed by a vote of 43 to 47.

Debate on that amendment indicated that it failed because of uncertainty as to whether additional official funds would be provided to cover such unreimbursed expenses as Senators' in-State travel and the use of the Senate Recording Studio.

Now such funds have been provided. In H.R. 7932, the Senate created the Official Office Expense Account, increased the allowances granted Senators, and enlarged the expenses for which official funds are available. It thereby eliminated any justification for using political contributions for official expenses.

Mr. President, public money should fund public duties, and now that the Senate has acted to adjust official allowances for official expenses, the use of political contributions for this purpose can and should be ended.

This bill, however, sanctions the use of excess political funds for official expenses.

The history of such funds, which are known in common parlance as "slush" funds, is notorious, and it does not bear repeating. Suffice it to say that public disclosure of these benefactions by individuals is not a means of ending them. Senators are beholden to their benefactors and demeaned by a process which invites them to solicit private funds for their keep. All that is sought by my amendment is to erect a wall, for the benefit of Senators, as well as for the reassurance of the public, between private contributions and official duties.

If the Senate does not act to put up the wall, others will. The Internal Revenue Service has proposed rules that would jeopardize the exempt status of political committees which provide funds

for the ordinary and necessary expenses of a Member's office. Senators may have to segregate political funds for official expenses from those for political purposes. Members would be required to distinguish between exempt political expenditures and ordinary and necessary official expenses, keep accounts accordingly, and then justify those decisions to the Internal Revenue Service. The deductibility or tax credit to the donor of a political contribution would depend on the use to which it was put and the fund to which it was assigned by the Senator. Agents of the Internal Revenue Service would opine as to what are the ordinary and reasonable expenses of Senate service.

If election reform is to be truly effective in restoring public confidence in elected officials, campaign funds must be untainted and perceived as such. Elimination of the use of political contributions for official expenses is a long overdue step in that direction.

So, Mr. President, I urge the Senate to consider favorably this amendment.

The PRESIDING OFFICER. Who yields time?

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

Mr. CANNON. It is on the Senator's time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENSON. Mr. President, whose time is this quorum call being charged against?

The PRESIDING OFFICER. The Senator from Illinois is informed that a quorum call is in progress. It is charged against the Senator from Illinois.

The assistant legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished manager of the bill yield me some time, either from the time on the bill or the time on the amendment?

Mr. CANNON. I yield the majority leader 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, yesterday the Senate voted to strike part I, providing for partial public financing of Senate general elections, from S. 926. I voted to so strike. Although I supported—and continue to support—the concept of extending public financing to congressional elections, it had become clear that the Senate would not be permitted to bring debate to a close and proceed to vote on the merits of title I.

An additional reason for my decision to support the motion to strike part I was the fact that I consider it urgent that the Senate proceed to vote on the very important provisions contained in part II of the bill, the amendments to the Federal Election Campaign Act. These amendments are responsive to problems which have been identified in connection with the Campaign Act as it operated in the most recent elections. Some of these problems are technical in nature; solutions to such problems have been painstakingly structured by the Rules Committee. Other amendments are directly responsive to criticisms which have been offered on the Senate floor during the last few days concerning the operation of the Campaign Act during the 1976 election.

Thus, part II contains several important provisions which, among other effects, would:

Reduce the recordskeeping and reporting requirements imposed on candidates and committees, while preserving the public's right to learn the sources of campaign contributions.

Strengthen and broaden the scope of activities of politcal parties, and their State and local committees.

Clarify the application of the law with respect to permissable activities by candidates and committees.

Mr. President, part II of S. 926 contains the type of reform which is beneficial to all. These amendments resolve uncertainties in existing law, and streamline the process for everyone involved: the contributor, the candidate, the officers of a political committee. Such reforms are not partisan in impact, and favor neither incumbent or challenger. They are hardly earth-shaking in their impact, but they are necessary.

I urge my colleagues to support the recommendations of the Rules Committee as contained in part III of the bill. The committee has carefully considered these matters; it has monitored the operation of the existing law; it has studied many suggestions for improving the law; it has taken extensive testimony from interested parties; it has issued its report. The report explains the need for, and the impact of, the proposed amendments. It has been available to the Senate for more than a month.

Beyond that, the Senate has been debating S. 926 for fully 7 days now. Opponents of the legislation—part I and part II alike—have had full opportunity to present their views. For my part, I have not heard any convincing arguments as to shortcomings or problems involved with part II of the bill.

I believe that the recommendations of the Rules Committee are valid and constructive revisions to the Federal Election Campaign Act as reported by the committee, and I hope that the Senate will support the committee and proceed to accept them.

Mr. President, I yield back to the chairman any part of the 5 minutes that may remain.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will run equally against both sides.

Mr. ROBERT C. BYRD. On the bill or on the amendment?

The PRESIDING OFFICER. On the amendment.

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

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time for the quorum call be charged equally against both sides on the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. I ask unanimous consent that Dr. James P. Lucier of my staff have the privilege of the floor during the consideration of this measure and any votes thereon.

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

Mr. HELMS. I thank the Chair.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Brent Budowsky of my staff have the privilege of the floor during the consideration of this legislation.

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

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the quorum call will be reinstated under the same provisions for the charging of time. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Nevada.

Mr. President, as I understand it, this amendment has the same intent as the amendment offered by my good friend and partial namesake from Illinois at the time we considered the ethics resolution.

If I am correct, I must once again oppose this amendment. I do so, notwithstanding the fact that I understand what he wants to do, and I, too, understand some of the problems we are having with the Internal Revenue Service. But I also believe this is not the way for us to proceed, to prohibit the use of these funds for expenses which, by definition, are expenses that are official business.

I am preparing to go to Alaska, I might say to my good friend, on Friday night. There will be at least two congressional groups in my State. One of them is a group from the other body. I want to try to have a staff member accompany that group. They are chartering planes, using committee funds, which I might say are not available to me as a member of the minority despite the fact that I

might be ranking member on several subcommittees. I have no control over committee funds. I do not question the use of committee funds from the House. I think they are correct in using those funds. I urge them and all Members of the Congress to come and learn more about our State.

In order to send my staff member along with them, and for myself to travel along with the Senate committee, I will incur expenses that far exceed my ability to reimburse under the official allowances of the Senate. If the Senate is prepared to face up to that kind of expense and sort of give us a blank check, that is one thing. But, I do not think they are.

The problems we had with the recent legislative appropriations bill and the amendments to it, I believe, demonstrate this.

We are in a position where each month I incur expenses which are beyond my allowances, which are, by definition, official expenses. They are expenses of my staff or myself as we travel to or from Alaska, or to other States. I might say I am grateful to those who worked on the legislative appropriations bill. At least we are now able to travel using official funds to a meeting in California, for example, or to a meeting in Seattle, without the necessity of paying for those expenses personally. But they do not cover all of the ordinary and necessary expenses of a Senator or his staff and, of course, I must cover those.

For those people who are independently wealthy, who have income from unearned sources, I am sure those expenses which are, by definition, business expenses are deductible. It does not do me much good in a normal year. Last year I sold my house, and I guess I could write them off against that. But in terms of those of us whose only income is our salary as a Senator, this amendment strikes at the very nature of equality.

Today we use campaign funds for the excess of the official business expenses over our allowances. We do so with the full approval of my committee. As a matter of fact, they pass over every single voucher. They have rejected some, saying, "No, you must pay those personally," which I do.

To have this section become law would affect that money which is currently available under existing law for legal expenditures. By definition there is nothing that could be wrong with these expenditures, as these are, as the Senator's amendment says, ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office. They are not political; they are business expenses, et cetera.

Mr. BUMPERS. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. BUMPERS. I voted against the amendment of the Senator from Illinois the last time. I have had difficulty understanding the rationale for the Senator's amendment.

The point that I understand the Senator from Alaska is making deals with this fact, for example:

No. 1, when the Senator goes to his home State, he has to pick up his food and hotel bill, no matter if he is touring Alaska. If he has a campaign fund, which I have——

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

Mr. CANNON. Mr. President, I yield an additional 5 minutes to the Senator.

Mr. BUMPERS. I have those funds and I assume the Senator from Alaska has those funds. He can pay those ordinary and legitimate expenses from that account. I do that. But this is no slush fund. This is an account which is made public. I report it. It is not a slush fund by any stretch of the imagination. Anybody is welcome to look at it.

I do not understand, until the Senate decides to address this issue in a much more realistic manner, why that is not a perfectly proper fund and a perfectly proper use of that fund.

My staff members can go home with me and they can stay, I suppose, in the fanciest hotel in town. They can submit a bill to the Disbursing Office of the Senate for their hotel bill, for their food, for everything they incur as an expense while there, and it is reimbursed. But a Senator cannot do the right thing. Is that correct?

Mr. STEVENS. I think we changed that in the legislative appropriations bill. We can get some reimbursement but not total reimbursement, and not within 60 days prior to the election.

Mr. BUMPERS. I approve of that. But how did the legislative appropriations bill amend that?

Mr. STEVENS. It makes available the per diem for Senators in their States out of their existing allowance. That does not solve the problem, as far as I am told.

Mr. BUMPERS. I wish the Senator had not told me that.

Mr. STEVENSON. Will the Senator yield for a further question?

Mr. STEVENS. I shall be happy to, if we share the time a little bit. I should like to finish.

Mr. STEVENSON. Is it not true that the bill not only enlarges the expenses that can be compensated; it also increased by 10 percent the amount of funds that are available for all the expenses the Senators are discussing?

Mr. BUMPERS. I am sorry I took up the Senator's time, and I shall check into it. I am inclined to support him, because that is the kind of thing I have been irritated about ever since I have been in the Senate.

Mr. STEVENS. What the Senator from Arkansas says is right, but the money is not there. The last time we increased the allowance to have the staff receive per diem allowances, it came out of the existing allowance. Our allowance was increased 10 percent. They gave us a 10-percent increase in our allowance, the first in 5 years, but it does not even meet the inflationary costs. The telephone costs to my State alone exceed the increase.

What they are saying is, "Take your allowance for travel, take your allowance for stationery, take your allowance for telephone, it is all lumped together, and out of that you can pay yourself per diem or pay your staff's per diem."

What that means is, if you have just been getting along on your allowance in dealing with constituents' problems, if you pay yourself and your staff per diem, you are not going to take care of constituents' problems.

We have not faced up to the question of the volume of the commitment of these funds. There is no increase to cover these commitments. The increase that we have does not cover inflation. We can look at that over 5 years, and that increase does not deal with the inflationary spiral of stationery, travel, or telephone expense.

The basic problem with it is that, even with the availability of the per diem, it still does not cover the costs we are talking about. The costs that we are talking about are the ordinary and necessary expenses of a Senator which are not reimbursable, and there are a great many.

How about the meeting that a Senator has with constituents, where he invites them to come into a central place in his State, which I am going to do again Sunday, as a matter of fact, and I am going to buy their dinner? I am going to buy their dinner with my political fund money. It is going to cost $200 or $300. The Senator from Illinois will tell us that we cannot use the reimbursement from the Senate for that; I assure the Senator of that.

If you invite them to come and meet with you and it is a dinner or luncheon meeting, you are going to pick up the tab. Today, my committee pays that. They know they are going to do it and they approve it, because it is not only good business, it is an ordinary and necessary expense of being a Senator. It is also doing your job. If you do your job right, that is good politics.

So, in effect, it is a political expenditure because, from the time you are elected until the time you leave the Senate, there is hardly anything you do that does not have political consequences. They can be negative or they can be positive. If you do not do something, it is negative. If you do do something, you might get credit for it and it is political and positive.

I think the Senator from Illinois is going the wrong way. My constituents know I am not a rich man. My constituents put up this money. Every dime is reported as it comes in; every dime is reported as it goes out. If an opponent of mine in the next election wants to say I should not have spent that money on dinners or on entertainment or whatever it is, it is there. It is in black and white.

But I think that my people know that, as a Senator, I ought to have an opportunity to get together with some of these people. I must have access to funds to do this. Unless this body is going to become 100 percent millionaires instead of just 60 proof, then I think it is time we stopped bringing this issue up.

To a certain extent, it is embarrassing. I am not a millionaire. The ethics bill that we passed earlier this year has made sure that I will never become one.

That does not bother me, because there is no way for a person to earn any money once he gets here. You can have all the money roll in that you want from inherited sources or money you made here

first under an income as entirely legal. But those of us who just improved our brain and made that the source of our income are tied and shackled here on the floor of the Senate. This will do more; this will put me in irons.

I do not like it. I do not like to have to be embarrassed to raise it every time. But it is time somebody faced up to the fact that there are those of us who come to the Senate who are not rich, who are not going to get rich, and we want to be honest. This is the way to stay honest.

The alternative is, if I want to have a dinner, I call up somebody and say—and this is perfectly legal under the present system—"Hey, Joe, will you host a dinner for me?" So I am going to go out with my hat in my hand and say, "Joe, you pick the tab up this time because I can't afford it."

Why not let me be honest, let me publish the income I get from the fund and the expenditures I make from the fund? I think it is the only way I can conduct business.

Mr. CANNON. I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Nevada.

Mr. President, I rise in opposition to this as I did alongside the Senator from Nebraska, back when the ethics resolution came up. There are not many new arguments.

Granted, the allowances have been increased, but they barely take care of the rate of inflation. To give an example, if this passes, this is the kind of predicament it puts me in: We have a very aggressive constituents' group in the State. We have a mobile office that, as a matter of fact, was broken into last night and somebody stole the CB radio. We had Common Cause suggesting we put in a hot line. We answered a question during the campaign that, yes, it would have an 800 number, it would let the people of the State call in toll-free every day. If this amendment passes—we are not talking about slush funds. They are all reported funds. We are not going to stamp out that ghost. I have never had a slush fund. These funds are all reported, the expenditures are reported in accordance with the Federal Election Commission requirements. But the hot line runs about $300 a month. If this passes, we cannot use excess campaign funds or any contributed funds to defray the cost of that hot line.

I think it indicates, even though I believe the Senator from Illinois is well intentioned, that this goes far beyond that. I think the ethics resolution took care of the slush funds and those are gone. They are unethical. This is killing something, putting something to rest, that goes far beyond the slush fund. I agree with the Senator that we were wise to get rid of slush funds, even though I never had one.

A further problem I find with this is that there is no definition of "ordinary and necessary." It might well encourage the IRS to tamper with what the Ethics Committee and they have indicated has been ordinary and necessary before.

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

Mr. DURKIN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Is the Senator from Illinois prepared to yield his time back?

Mr. STEVENSON. Mr. President, I should like to take about 3 minutes for myself, if there are no other Members who want to be heard on this. Then I am happy to yield back my time.

Mr. President, no amount of public disclosure, righteous rhetoric, ashes, sackcloth, or all the rest is going to change the characterization of these funds. These funds are what are commonly referred to in the press and by the public as slush funds. They are political funds, political contributions, alms from private sources that are then used by Members to support themselves in public office. The Senate, in its Code of Conduct, has said that Senators cannot, beyond a limit, earn moneys from outside the Senate, but it has said in the code, and now proposes by this bill to say in the law, that it is all right to take your tin cup and go out and raise funds from private sources in the guise of political funds to maintain yourself in public office.

When this matter was last discussed, the argument made against it was similar to that just voiced by the distinguished Senator from Arkansas; namely, that the official funds available for our official expenses were inadequate. But, since then, those funds available from official sources for official expenses have been changed. They have been increased by more than 10 percent and they have also been enlarged to cover expenses such as per diem for travel in a Senator's State.

The Senator from Alaska has what I believe is a real problem and a unique problem. What he is suggesting is that, to accommodate the problems in Alaska, Congress, having limited earned income, should now sanction the receipt of gifts to defray official expenses. Well, Mr. President, I am not going to go into the history of these funds. They ought to be painfully etched upon the mind of every Member of this body. It demeans Senators to go out and seek and to accept funds from such sources for the performance of their public duties. It demeans the Senate; and, what is more, it now is not necessary.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STEVENSON. Mr. President, I yield myself 2 more minutes.

The official allowances available for those expenses are now, I believe, in most instances, if not in all, adequate.

What is more, there are alternative means by which necessary expenses can be obtained from other sources.

I think it is unfortunate. I think all official expenses ought to be defrayed from official sources, but it is possible, and the Senator from Alaska knows it well, to obtain travel under the code of conduct.

Mr. DURKIN. Will the Senator yield for a question?

Mr. STEVENSON. In extraordinary situations, and he faces them in Alaska, without——

Mr. DURKIN. Will the Senator yield for a question?

Mr. STEVENSON. Not yet.

Without using political contributions.

Mr. President, I want to make one final point. This matter is not entirely within our hands. The Senator from Alaska has cited one instance in which official funds are probably not available. He referred to the entertainment of constituents and he said that cost of entertainment of constituents is political.

If it is political—and I believe he is right, and if he is not, he can be made right by the Senate—then the political funds can be used to defray those expenses.

The point is that the IRS is denying the deduction of political funds. They get taxed to us as income, but they do not get treated as deductible expenses for the entertainment of constituents.

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

Mr. STEVENSON. Two more minutes.

What is more, I understand the IRS is going even further now to prevent Members from taking deductions for the expenses of entertainment of their own staff, an ordinary, reasonable business expense, which in any other vocation would be deductible.

What is happening is that the IRS is moving in on these funds to regulate them and to determine what are reasonable and ordinary official expenses.

In doing so, it is creating serious problems of enforcement for the Ethics Committee of this body. It is creating pitfalls for every Member of this body. It is even, under this procedure which permits the use of political funds for political expenses, creating unforeseen difficulties for the donors of the political funds who may lose their deductions or their credits, depending on what use their contributions are put to by the Senators who receive them.

If the Senator uses a contribution for an official expense, as opposed to a political purpose, one of the consequences could be that the donor loses his tax credit or his deduction.

It has become so complicated and so fraught with peril for Members of this body that I, as chairman of the Ethics Committee, have had to retain a national accounting firm to develop standards and an accounting manual for the Members in order to keep them out of trouble with both the IRS and their own code of conduct.

The PRESIDING OFFICER. The 2 minutes have expired.

The Senator has 8 minutes remaining.

Mr. STEVENSON. Mr. President, 1 minute.

Mr. DURKIN. Will the Senator yield for a question?

Mr. STEVENSON. Mr. President, this amendment, if approved, will not deprive Senators of the funds with which to defray their ordinary, reasonable, official expenses. It will end a practice which has been a source of public suspicion and anxiety for a long time. It will head off what are already some difficult and potentially embarrassing problems that arise from the use of these funds for official expenses under the Internal Revenue Code.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Who yields time?

Mr. STEVENSON. I yield to the Senator from New Hampshire 1 more minute.

Mr. DURKIN. I thank the Senator.

The Senator from Illinois suggested there was another avenue, another means of funding travel that met all the stipulations.

That is a new thread. Will he please explain that to the body?

Mr. STEVENSON. Under the code of conduct of the Senate, gifts of travel may be accepted if they are incidental to official business or to an appearance—

Mr. DURKIN. But that is not what we are talking about here.

I mean, that goes hat in hand to get someone to sponsor the travel rather than having an FEC account where it is all reported.

Mr. STEVENSON. If the Senator is saying that is not what we are talking about, it is true, if what he is talking about is his WATS line in New Hampshire——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Who yields time?

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Illinois has 6 minutes remaining, the Senator from Nevada has 10 minutes remaining.

Mr. CANNON. I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Nevada.

I do not want to be repetitive, but I do agree with the Senator from Illinois that there is a certain problem of definitions. But there is no definition of ordinary and necessary in his amendment. There is no definition of what is political.

We are getting into a quagmire and disrupting what has been fairly well settled by the IRS and by the decisions of the Ethics Committee.

These funds are all reported. The receipt is reported. The expenditure is reported to the FEC.

As I say again, I am not trying to defend the slush fund. I never had one. I never solicited nor accepted funds. I never had one.

But I ask the Senator from Illinois, he is not inferring—I am sure his answer is "no," but I want to pin this down—he is not implying the use of excess campaign funds or funds contributed in accordance with the FEC reporting—in accordance with the FEC, they are expenditures reported in accordance with FEC—ordinary and necessary expenses incurred by him or her in connection with his duties as a holder of Federal office, is in any way unethical or contrary to the decisions of the Senate Ethics Committee?

Mr. STEVENSON addressed the chair.

Mr. DURKIN. As it stands today. The answer would be "no," would it not?

Mr. STEVENSON. Mr. President, as I tried to indicate, I do not think that public disclosure changes the character of these funds. These are from private sources and used to defray official expenses. They have been historically a source of public suspicion. I think it is a bad practice, but not unethical.

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

Mr. STEVENSON. I do suggest it creates an appearance——

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

Mr. DURKIN. Mr. President, I ask for 30 seconds because this is very important. This is the chairman of the Ethics Committee. I think the whole body should listen fairly closely.

In other words, the answer to the question is "no." There is no implication today of unethical conduct or any conduct contrary to the ethics code or decisions for the use of excess funds contributed, reported, expended, in accordance with the FEC for ordinary or necessary expenses incurred by him in the performance of his duties—or her duties—the Federal officeholder?

I gather the Senator's answer, which was interrupted by the Chair, was "no."

Mr. STEVENSON. Mr. President, that was not my answer.

The funds can be a source of unethical conduct in the Senate. I certainly have no evidence of such being the case now.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. STEVENSON. I yield myself 1 minute.

They can create an appearance which arouses suspicion in the public mind. These are funds which are obtained typically from sources that have an interest in legislation.

Finally, as I indicated earlier, they can, however innocent the donor, however innocent the donee, create serious difficulties, including unintended violations of the law, because their use can contravene the Internal Revenue Code.

Mr. CANNON. The Senator is not suggesting by that answer that the Internal Revenue Service would not approve the use of campaign funds for the ordinary and necessary expenses of a Senator's office, is he?

Mr. STEVENSON. No. What the Senator from Illinois is suggesting is that, under this approach, it is the IRS which determines what is reasonable and necessary, not the Senate. Those determinations by the IRS, in my opinion, what I have seen of them, are unreasonable, and I believe they would be regarded by many other Members as unreasonable.

That being the case, it is difficult for Members to anticipate the decisions of the IRS in advance.

The expenses of entertaining staff by a Senator or an annual Christmas party, for example, have been challenged now by the IRS, not to mention the use of such funds for entertaining constituents, which I would think would be more clearly not ordinary and reasonable expenses than those for entertaining staff.

Mr. CANNON. Mr. President, I yield 4 minutes to the Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, I rise to speak in strong and personal terms about this legislation, and I ask the forgiveness of my colleagues.

I do not want to make a pretense that I am doing other than talking about the Senator from New York and the circumstances in which he would find himself if this measure were to pass. I have not only the right to do this but also the duty to the 18 million people I represent in the second largest State in this Nation.

Mr. President, I came to the Senate after having spent my life in teaching and in government affairs. I never earned more than a professor's salary or a civil servant's salary. The 1 year that I made a substantial sum of money in my life was last year, and I paid 52 percent of my income in income taxes. I paid more in taxes than I ever have been able to pay. I had to borrow to pay. I have been left, as it were, penniless.

The first thing I found when I came to the Senate was that the one source of income which I would care to say is legitimately mine, as a teacher, which is the income from lecturing, which I am trained to do, which I have done all my life, was to be denied me or curtailed sharply. I would have been quite prepared to have no expenses—if it came to that, no salary—if I could earn what would come to me openly as a teacher, lecturing at universities, and the Senate denied that to me. I said nothing. I made no comment at all during that debate.

However, over and over I heard the phrase, "The Senate is becoming a millionaires' club." It was said on this floor and it has been said in the press—a millionaires' club. And should we become such, with what moral authority will this body speak?

My grandfather came to this country and dug ditches until he finally settled, and he dug them long enough to stop in the town where the job ended. My father worked hard and made less.

I have accumulated no money. I have no family estates. My mother has none. I will never acquire any. My children have none.

However, now I learn, with respect to the small expenses of representing a State of 18 million people, that I cannot go out openly and honorably and ask friends to give me small contributions to pay for what are, in effect, the official costs of being their representative. I am told that, in effect—it was said in the last debate—this would be going out with "tambourine and tin cup." Mr. President, I have no alternative to "tambourine and tin cup." I am not a man of wealth. I am not in debt, but I have no money to speak of. My father did not give it to me. My grandfather did not give it to me. My wife did not bring it. I cannot earn it by doing what I am professionally qualified to do, which is to receive fees from lecturing, an old and honorable affair of politicians. Socrates made his living by charging for his teaching.

I cannot do this, and now I am told that I cannot go to political supporters

and have them help as well. I am told that I should bankrupt myself and live in a society here of very wealthy men, men of family, men of connections, men of huge resources; and I am told increasingly that I do not belong here.

I did not come to a House of Lords. I did not win my seat by my father's patrimony. I won it in a free election against a man of great wealth.

I put into that campaign every penny I had in my pockets, because I felt that the State of New York needed a person with my party's politics. I won. I came here without wealth. I was told I could earn nothing more from my honorable trade of teacher. Now I am told that I cannot even be a mendicant. I am told I must be a pauper.

Mr. President, I beg the Senate not to enact this legislation.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Who yields time?

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

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. STEVENSON. Mr. President, that performance was not only entertaining; it was touching. [Laughter.]

But it neglects that the allowances available to Members of the Senate have been changed. They are now adequate, and the Senator does not have to put on his ashes and sackcloth, and he does not have to beg with tin cup or tambourine. The expenses of service in this body, especially for a Senator from New York, are more than adequate.

What the Senator is suggesting—and I ask him if this is not the case—is that because his opportunity to earn money on the outside has been limited, he should be able to beg on the outside.

Mr. MOYNIHAN. That is precisely what I say. [Laughter.]

If I cannot earn, I will have to beg; and if I cannot beg, I will in effect expel myself as a representative of my State. Yes, the distinguished Senator from Illinois is correct. You have to go around and ask. If you do not have money and you cannot earn money, you can steal it or you can ask for it. Another form of asking for it is to beg for it.

We know, Mr. President, that asking is a form of begging. It is not what we want. I would much rather have gone out and worked for it. But I was told that I could not do that. So, honorably, I will beg for it. I shall be a member of the mendicant order of the U.S. Senate—an honored tradition in my church and soon to be a small minority, but I hope an honored faction, in this honorable body.

Mr. STEVENSON. Mr. President, that draws the line. All beggars line up on the side of the Senator from New York. [Laughter.]

If you want to beg for funds which you do not need any longer to pay for your official expenses, vote against this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, may I have 2 minutes? I beg for 2 minutes. [Laughter.]

Mr. HATFIELD. I yield 2 minutes on the bill to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I suggest to my good friend from Illinois that the good Senator from New York, our admired friend, will be so surrounded by people who are persuaded by the logic of his argument that it may be rather hard to line up closely to the Senator from New York. I think he makes the point very well, indeed, that we have gone completely overboard in considering what sort of extraconstitutional restrictions we are placing upon Members of this body.

I compliment the Senator from New York for his perceptiveness, his understanding of the facts of life; and I can assure him that throughout America are many people who would admire and who would seek to emulate his honesty and his candor in couching his convictions in precisely the terms he states them.

I think he understands and knows full well what is back of this amendment. I hope it will be rejected. I did not vote for this ethics bill in the first place because I do not believe it is necessary for the U.S. Senate to impose extra constitutional restrictions upon membership in this body, and I salute my good friend from New York who happens to be on the other side of the aisle, but along whose side I shall try to move in order to have people in Wyoming understand how strongly I support his views.

I thank my friend from Oregon.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. 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. CANNON. Mr. President, before going to a vote—and I intend to move to table this matter—I will say now to my colleagues that we should be to a vote very shortly, but the Senator, in his colloquy with the Senator from New Hampshire, raised a question that I think ought to be made perfectly and absolutely clear for the record.

The implication, as I got it, was that it would be considered probably unethical to use excess campaign funds for the payment of ordinary and necessary expenses of the office. If that was the Senator's statement that is completely in error, and I would cite him section 439(a) of the Federal election campaign laws which spells out very specifically and which says, referring to these funds, "may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal Office." In addition to that, rule 46 provides specifically, in relation to the term "unofficial office account"—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. I yield myself 2 minutes on the bill.

It says:

> An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from,

And then goes on to subparagraph (c)

> funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971);

So I wanted the record to be absolutely clear that it is not only legal, but it is not unethical under the present ethics code of the Senate at this time for a Senator to use excess campaign funds for the reimbursement or expenditure of the ordinary and necessary expenses in connection with his office.

Mr. STEVENSON. Mr. President, I yield myself 1 minute. I concur with that statement. But it is wrong to suggest that any conduct which complies with the letter of the law is ethical. Unethical conduct does not have to be indictable; there is nothing inherently unethical about the use of unofficial funds for official expenses. However, they can be a source of unethical conduct. They can create appearances of unethical conduct, even without the reality. They can create suggestions of undue influence in the institution, and also, as I indicated, they can lead to violations of the Internal Revenue Code, however innocent.

Mr. CANNON. Mr. President, I move to table the amendment of the Senator from Illinois and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BIDEN). Does the Senator from Illinois yield back the remainder of his time?

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

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

The yeas and nays were ordered.

The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from Illinois.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HART), the Senator from Washington (Mr. MAGNUSON), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote yea.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY), are necessarily absent.

The result was announced—yeas 63, nays 29, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—63

Allen	Domenici	Huddleston
Anderson	Durkin	Humphrey
Baker	Eastland	Inouye
Bayh	Ford	Javits
Bellmon	Garn	Johnston
Brooke	Glenn	Laxalt
Burdick	Gravel	Long
Byrd, Robert C.	Hansen	Mathias
Cannon	Hatch	Matsunaga
Case	Hatfield	McClure
Chafee	Hathaway	McGovern
Church	Hayakawa	Morgan
Curtis	Heinz	Moynihan
Danforth	Helms	Muskie
Dole	Hollings	Nunn

Packwood	Schweiker	Talmadge
Pearson	Scott	Thurmond
Pell	Stafford	Tower
Riegle	Stennis	Wallop
Sarbanes	Stevens	Williams
Schmitt	Stone	Young

NAYS—29

Bartlett	DeConcini	Metcalf
Bentsen	Eagleton	Metzenbaum
Biden	Griffin	Nelson
Bumpers	Haskell	Proxmire
Byrd, Harry F., Jr.	Jackson	Randolph
	Kennedy	Ribicoff
Chiles	Leahy	Roth
Clark	Lugar	Stevenson
Cranston	McIntyre	Weicker
Culver	Melcher	Zorinsky

NOT VOTING—8

Abourezk	Magnuson	Sasser
Goldwater	McClellan	Sparkman
Hart	Percy	

So the motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take seats or carry their conversations to the cloakrooms. The Senate will be in order. The Senator from Oregon cannot be heard.

Mr. HATFIELD. Mr. President, I address my brief remarks to the Members on the minority side. At this time, I have on my list for amendments to be offered, or at least for time to be allocated, 6 hours and 45 minutes. I am told by the leadership that we are going to finish this bill tonight; so I urge Members on the minority side to be very conservative with the time required to present their amendments, because otherwise we will be here rather late tonight.

I do not have a count of the number of amendments yet to be offered on the majority side, but I reiterate, on the minority side I have on my list 6 hours and 45 minutes of time set aside for amendments.

I just wanted to make that a matter of record at this time.

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

Mr. HATFIELD. I yield.

Mr. ROBERT C. BYRD. I thank the Senator for that statement. I wonder if we could ascertain at this point whether or not there are further amendments on this side of the aisle.

Mr. STEVENSON has one; that appears to be it on this side of the aisle.

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

Mr. HATFIELD. I yield.

Mr. BUMPERS. I ask unanimous consent that Richard Arnold, of my staff, be accorded the privilege of the floor during the consideration of this measure.

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

AMENDMENT NO. 692

Mr. STEVENSON. Mr. President, I call up my amendment No. 692, 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 Illinois (Mr. STEVENSON), for himself and Mr. MORGAN, proposes an amendment numbered 692.

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

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

The amendment is as follows:

On page 62, between lines 4 and 5, insert the following:

"(2) by striking out '$5,000' in paragraph (2)(A) and inserting in lieu thereof '$1,000';.

On page 62, line 5, strike out "(2)" and insert in lieu thereof "(3)".

On page 62, line 17, strike out "(3)" and insert in lieu thereof "(4)".

On page 62, line 21, strike out "(4)" and insert in lieu thereof "(5)".

On page 64, strike out lines 1 and 2 and insert in lieu thereof the following:

"(d) Section 320 of the Act (2 U.S.C. 441a) is amended—

"(1) by inserting a comma and 'and amounts totaling not more than $5,000 may be contributed to a candidate for nomination for election, or for election, to the House of Representatives during the year in which any election is held in which he is such a candidate, by the National Republican Congressional Committee or the Democratic National Congressional Committee, or the national committee of a political party, or any combination of such committees' immediately before the period in subsection (h); and

"(2) by adding at the end thereof the following:".

Mr. STEVENSON. Mr. President, this amendment would bring both political action committees and party committees under the same contribution limitation as individuals: $1,000 for contributions to any one candidate.

Total contributions by special interest groups rose from $12.5 million in 1974 to over $22.5 million in 1976. Those contributions went to incumbents by a ratio of 3 to 1. This proliferation of these artificial legal entities, and the amounts of money which they funnel into the campaigns of those who are sympathetic to their views, make a mockery of their original purpose, which was to permit the pooling of funds by small contributors who felt their individual contributions had a limited effect. The tail now wags the dog, and the damage to public confidence in the independence of elected officials is considerable.

Mr. President, arguments can be made for these devices as means by which to pool small contributions. The figure of $1,000 in this amendment is arbitrary. As I indicated earlier, it was settled on in order to equalize the ceilings for the PAC's, or political action committees, with those for individuals. Without some reduction in the $5,000 ceiling which is now in the bill, the relative position of the PAC's is enhanced.

A $5,000 limitation is not a realistic limitation. Large contributions can be, through the PAC's, contributed to candidates for Congress, and the whole purpose of election reform is subverted.

So I would hope that, if not at the level which the amendment now contains, the committee might be presuaded to consider a reduction of some magnitude in the $5,000 ceiling for contributions by PAC's. If so, assuming agreement, I would be happy to modify the amendment in order to incorporate a lower ceiling than the $5,000, but one that is higher than the $1,000 ceiling which I suggest in the amendment.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Mr. STEVENSON. Mr. President, I yield to the Senator from Delaware for a unanimous consent request.

Mr. BIDEN. Mr. President, I ask unanimous consent that Dede Doran of my staff have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. STEVENSON. Mr. President, I suggest the absence of a——

Mr. CANNON. Mr. President, will the Senator withhold that?

Mr. STEVENSON. I withdraw the request?

Mr. CANNON. Mr. President, I think that this amendment is unreasonable in its restrictions. We are trying to get a base here that we can support on all contributions—contributions from the public, contributions from individuals, and contributions from qualified committees. If we reduce the maximum so that an organization or PAC can only contribute a thousand dollars, that is the same amount that an individual can contribute. As a matter of fact, an individual and his wife can contribute $2,000; so they would be able to contribute more to a candidate than one of these political action committees.

I could not support the amendment. At the appropriate time, unless it is modified, I will move to table the amendment.

Mr. STEVENS. Mr. President, will the Senator yield for just a short comment?

Mr. CANNON. I yield.

Mr. STEVENS. Mr. President, I served as chairman of the Republican Senatorial Campaign Committee for the last 2 years, and I would join the Senator from Nevada in supporting the motion to table, particularly until after the present campaign. This is changing the rules in the middle of the game. These political committees, or PACs, must be in being for 6 months and must be giving contributions, as I recall, to five candidates before they can reach the $5,000 limit. There would be no way for these committees to readjust themselves in midstream of this campaign, which, by definition, is started already.

I think it would be very unfair for us to change the rules now. If the Senator wants us to take this up and consider it for subsequent elections, that might be another matter, in terms of the total balance of outside contributions.

But I do not think there is any way we should change these limits each time a bill comes before the Senate. The limits are reasonable in terms of their maximum amount. I would hope everyone would join the Senator from Nevada in voting to table this amendment, which really has nothing to do with the total question of reform that the Senator is

talking about, as far as campaign activities are concerned.

Again, these are funds where the source is reported, where the limit is known by everybody. Very few people get the maximum from them. But of those who do, I assume that the people who manage the funds know what they are doing in terms of giving the maximum amount.

As far as the balance between the PACs and individual contributions, and the many, many people who are able to contribute $2,000 as husband and wife in the primary, and $2,000 as husband and wife in the general election, I think the balance ought to be there as in existing law.

This means a multiple organization where the contributions are very small can be pooled to an amount to a total of no more than $5,000. I think that is a fair limit to the existing system.

Mr. STEVENSON. Mr. President, this amendment would not make any Member or anyone else guilty of violating a law that was not in effect at the time of his action. The effect of this amendment would be prospective. It would not become effective until enactment of the legislation.

Mr. President, the amount of money funneled into campaigns by PAC's increased by almost 100 percent in just 2 years. If one of the purposes of election reform is to reduce the large amounts of money which go into campaigns from special interests, some greater attention ought to be paid to PAC's which, by their proliferation and the amounts permitted, are devices used freely to channel large sums of funds into political campaigns at the expense of individuals who are limited to $1,000 contributions.

As the Senator from Alaska mentioned, and also the distinguished manager of the bill, the figure is arbitrary, and so is the figure in the bill. The amendment proposes $1,000. It does so because that is the limit for individuals. The bill contains a figure of $5,000, which is also arbitrary.

I recognize that, and also that a couple can contribute $2,000. I think the RECORD should also show that these PAC's can multiply and proliferate so that one special interest can contribute many times the $5,000 ceiling for one PAC.

Recognizing that any figure is arbitrary and feeling as I do, that $5,000 is too high, I would be happy to consider some intermediate ceiling. The Senator from Nevada mentioned that a married couple could give, with a $1,000 ceiling on contributions by individuals, $2,000.

Would the Senator agree that a figure of $3,000 would be a reasonable amount for a limit on PACs?

Mr. CANNON. Mr. President, I would say that a $3,000 figure would certainly be more acceptable to me, but I do not know how some of my other colleagues might feel with respect to the $3,000. I will call upon my colleague from Oregon for his comments.

Mr. HATFIELD. Mr. President, I would say that, as the minority party manager of the bill, this figure has not been used in discussing the amendment with Members on this side of the aisle. I would have to discuss it with the members of the minority side of the committee as well as Members of the minority party. Therefore, I am not in a position to accept the $3,000 figure at this time.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield for that purpose.

Mr. HATCH. Mr. President, I ask unanimous consent that Gordon Jones, Pam Strike, and Gary Hamilton of my staff be granted the privileges of the floor.

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

Mr. HEINZ. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield.

Mr. HEINZ. Mr. President, I ask unanimous consent that Bill Reinsch of my staff be granted the privilege of the floor.

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

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. I yield.

TIME LIMITATION AGREEMENT—S. 1952

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No 342, S. 1952, a bill to amend the Federal Water Pollution Control Act Amendments of 1972, is called up and made the pending business before the Senate, there be a 3-hour time limitation for debate, to be equally divided between Mr. MUSKIE and Mr. STAFFORD; that there be a time limitation on any amendment of 1 hour; a time limitation on an amendment by Mr. BENTSEN of 2 hours; a time limitation on any amendment in the second degree, debatable motion, point of order or appeal of 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1952 (Order No. 342), a bill to amend the Federal Water Pollution Control Act Amendments of 1972, debate on any amendment in the first degree (except an amendment by the Senator from Texas (Mr. BENTSEN), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Maine (Mr. MUSKIE) and the Senator from Vermont (Mr. STAFFORD): *Provided*, That the said Senators, or any one of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

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

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

Mr. MATHIAS. Will the Senator from Illinois yield for a question?

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

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. STEVENSON. I yield for a question.

Mr. MATHIAS. I am wondering if the Senator's amendment, and whatever dollar figure it may end up with, would apply not only to the classic PAC which normally has a parent of some kind, either a labor union or a corporate organization, but if it would also apply to the so-called ideological committees, to the public interest committees, which make contributions to the Members of Congress?

Mr. STEVENSON. The answer is "Yes."

Mr. MATHIAS. I would feel disposed to object and urge the Senate not to have it so apply because of the different kinds of organizations and the different ways in which administrative costs have to be met by these two kinds of committees.

The Federal Election Commission made a report on committees with total expenditures of $25,000 or more. They indicated that the public interest committees spent over three-fourths of the money they raised to pay for administration and direct mail solicitation. In contrast, the business-labor PAC's report virtually no expense for administration. It seems to me that there is a very broad difference there between the two.

At the proper moment I will offer an amendment to the amendment of the Senator from Illinois which would exempt the public interest or ideological committees from this limitation, and which would leave them at the $5,000 figure.

Mr. STEVENSON. Mr. President, the Senator makes a good point. He has pointed out that these committees have administrative expenses associated with their political activities which exceed those of the conventional PAC. So an increased ceiling for such committees would, in part, compensate them for their increased expenses and perhaps not change their relative influence in the political process.

I think the Senator makes a strong argument. I should not want to see the difference between the two very large. Does he suggest an amount?

Mr. MATHIAS. I shall like to see the public interest committees exempted from the effect of the pending amendment, which would leave them at $5,000, and if the compromise figure is $3,000, that would not be a very large difference

between the two. It would be one which would reflect the difference in the organic nature of the different committees.

Mr. STEVENSON. Mr. President, I modify my amendment to increase the ceiling for political action committees from $1,000 to $3,000 and send the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

The Chair hears none. The amendment is so modified.

The amendment, as modified, is as follows:

On page 62, between lines 4 and 5, insert the following:

"(2) by out '$5,000' in paragraph (2)(A) and inserting in lieu thereof '$3,000',.

On page 62, line 5, strike out "(2)" and insert in lieu thereof "(3)".

On page 62, line 17, strike out "(3)" and insert in lieu thereof "(4)".

On page 62, line 21, strike out "(4)" and insert in lieu thereof "(5)".

On page 64, strike out lines 1 and 2 and insert in lieu thereof the following:

"(d) Section 320 of the Act (2 U.S.C. 441a) is amended—

"(1) by inserting a comma and 'and amounts totaling not more than $5,000 may be contributed to a candidate for nomination for election, or for election, to the House of Representatives during the year in which any election is held in which he is such a candidate, by the National Republican Congressional Committee or the Democratic National Congressional Committee, or the national committee of a political party, or any combination of such committees' immediately before the period in subsection (h); and

"(2) by adding at the end thereof the following:".

UP AMENDMENT 714

Mr. MATHIAS. Mr. President, I send to the desk an amendment to the amendment which would exempt the ideological committees from the effect of the pending amendment.

The PRESIDING OFFICER. That amendment is not in order until time has been used or yielded back on the pending amendment, except by unanimous consent.

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order to consider the Senator's amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes unprinted amendment No. 714 to amendment 692.

On page —, line 3, insert the following: except that a multicandidate committee not described in Section 441b(b)(2)(C) may make contributions to a candidate and his authorized political committees with respect to any election for Federal Office which, in the aggregate, do not exceed $5,000.

The PRESIDING OFFICER. There is a 20-minute time limitation on this amendment. Who yields time?

Mr. STEVENSON. Mr. President, let me make certain I understand the effect of the amendment.

The PRESIDING OFFICER. The Senator from Maryland and the Senator from Nevada control the time on this amendment.

Mr. STEVENSON. Mr. President, this is an amendment to the amendment that I offered. Under those circumstances, do I not have any time on the amendment?

The PRESIDING OFFICER. Not under the agreement. The Senator from Maryland has 10 minutes on his amendment, and the manager of the bill 10 minutes in opposition.

Mr. MATHIAS. I yield to the Senator from Illinois.

Mr. STEVENSON. The Senator's intent was to exempt, and therefore subject to the $5,000 ceiling the ideological multicandidate committees. I did not understand that he intended to exempt political committees. Is that his intention?

Mr. MATHIAS. The Senator is absolutely right. The Federal Election Campaign Act now recognizes two types of multicandidate committees that are not party organizations. What this amendment is directed to is one of those two types of nonpartisan organizations—the ideological or public interest committees. I might give the Senator some examples.

They are committees like the National Committee for an Effective Congress, the Committee for the Survival of a Free Congress, or the Women's Campaign Fund, or the National Conservation Political Action Committee, which represent a broad spectrum of citizens who are interested in electing to Congress Members who have similar philosophies. They occupy a somewhat unique and limited place in the political process.

As a matter of fact, this kind of multicandidate committee is not described in the act. What is described in the act are the common kinds of committees—the business and labor political action committees which are supported by corporations or trade associations or labor groups, which make expenditures from their general treasuries to administer and solicit contributions for political campaigns. The PAC's support the view of a particular business or the economic interests of a labor union. These are the most commonly mentioned when the influence of special interest money is described.

What I am talking about is the other kind, which is recognized in the law, but which is ideological in the sense that they support, perhaps, conservative causes or liberal causes, or they back positions on particular issues of the day—gun control or abortion or environmental concerns. That is the kind of thing that we are trying to reach.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

I would be opposed to the amendment of the Senator from Maryland. This creates two artificial distinctions that should not be there. We would have one class of committee limited to a $3,000 contribution and another class of committee limited to a $5,000 contribution. What we are trying to do is equalize among the various groups their participation, and provide a limit on the participation that they can engage in, in connection with a political campaign.

Mr. MATHIAS. I urge upon the distinguished manager of the bill the facts of life, which are that the standard PAC—the labor PAC or the business PAC—has a parent which supports it. They have a broad administrative base in which the money can be raised as a result of the fact that they have an ongoing existence as a business corporation or as a union. These public interest committees have no such base and the reports of the Federal Election Commission indicate that. They have to raise their money for their own existence, for their own administrative costs. Then they have to provide the money which they contribute to the candidates which they think will support the issues on which they have positions.

If we cut them to either $1,000 or $3,000, we are putting them in a very unhappy position. I think that we are, in fact, creating the two tiers that the Senator wants to avoid.

This amendment actually goes toward equalizing, rather than toward differentiating between these two committees. It is an equalizing amendment because it recognizes that they have a different means of providing the funds for their own administrative survival.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER. The proponent of the amendment has 8 minutes, the manager of the bill has 7 minutes.

Mr. MATHIAS. I suggest further to the distinguished manager of the bill that we can see unfolding here the existence of a two-tier system, in which the business PAC's and the labor PAC's are multiplying themselves very rapidly.

The Senator from Illinois cited some rather startling figures in which he said the funds had increased by 100 percent in the last several years.

I ask the Senator from Illinois this question: Is it not true that it is not only an increase in funds, it is the number of the PAC's which has increased?

Mr. STEVENSON. The Senator is correct. It is a combination of proliferation of PAC's together with the amount of money that they contribute. We can place a ceiling on the PAC's, but it is not effective if they proliferate in order to get around the ceiling. I think that has been part of the explanation for the increase of almost 100 percent in the amount of contributions made by PAC's in just 2 years, 1974 to 1976.

Mr. MATHIAS. Would the Senator agree that there has been no such proliferation of the public interest committees?

Mr. STEVENSON. I do not know about that. I am not aware of any such proliferation. It could happen in the future.

To answer the Senator, I am not aware of any such proliferation in the past of the ideological multicandidate public interest committees.

Mr. MATHIAS. I am not aware of any such differentiation, of any such increase on the part of the public interest committee. I would suggest to the Senator that it is not likely that it will because the administration structure, the fact they have to raise the funds in order to administer their programs, makes it unlikely they will increase it.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I

would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. What is the status of the Mathias amendment at this time, the Mathias modification to the Stevenson amendment?

The PRESIDING OFFICER. Is the Senator inquiring about the amount of time left?

Mr. HATFIELD. No. Has the Stevenson amendment been modified by the Mathias modification, has it been accepted?

The PRESIDING OFFICER. The amendment by the Senator from Maryland in the second degree, is the pending business to the Senator from Illinois' amendment.

Mr. HATFIELD. Would the Senator from Illinois yield for a question?

Is the Senator from Illinois going to accept the modification proposed by the Senator from Maryland, are we going to vote on these matters separately or how?

Mr. STEVENSON. I cannot answer that. I am not willing to accept or support it because I am told that it excepts the party committees—and also for the reasons which were mentioned by the distinguished manager of the bill.

I must say I was tempted at first, but I am concerned about possible proliferation in the future, and, as I indicated, the fact that I believe it exempts from the $3,000 ceiling, which the modified Stevenson amendment would impose, the party committees, and make it possible for them to do more.

Mr. MATHIAS. If the Senator will yield, it was not my intention to exempt the party committees.

I think if the Senator will refer to section 112, which is found on page 61 of the bill, he will find the pertinent sections which limit party activity and which also provide the definitions for the parties.

So that this would, under no circumstances, exempt the party organization.

The amendment refers very specifically to the section, the existing election law which makes reference to the existence of political action committees, and simply exempts those political action committees which are not described in the pertinent section of the law, which is section 441(b).

So that there is no attempt or desire to exclude from the operation of the Stevenson amendment the political organizations.

Mr. STEVENSON. Mr. President, I am relying on the advice of others. The Senator may be correct. I certainly know his intention. But I would be reluctant to support his amendment even if his intention is accurately expressed in his amendment for the other reasons which I have mentioned and were also mentioned by the Senator from Nevada.

Mr. CANNON. Mr. President, what is the parliamentary situation, what is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 4 minutes remaining and the Senator from Maryland has 5 minutes remaining.

Mr. CANNON. I yield 4 minutes to the junior Senator from Nevada.

Mr. LAXALT. Mr. President, I rise in opposition to the Stevenson amendment. I think perhaps for a moment or two a review of our political history should be in order.

The whole tenor of the debate this afternoon for too long in this Chamber has been that there is something wrong with special interests, that there is something wrong with political action committees.

I happen to have started in this business when we deplored throughout this country the lack of activity on the part of business and professional groups in this country in contrast to the intense political activities of the labor unions.

As a partial remedy to that, we finally embarked in this Congress upon a program of authorizing political action committees so that we could thereby induce the business and professional, and other groups, to have a framework, a legal framework, in which they could concentrate more in terms of political activity.

The Senator from Illinois has deplored the fact it raises the flag of caution about the increase in the activity of the political action committee.

In my judgment, this is not to be deplored, but applauded, because that is the very purpose for which this legislation was originally instituted, to cause a catalyst by virtue of this legislation in the activity politically in the business and professional world.

So I would say that here when we talk in terms of drawing a distinction of the public service PAC's as opposed to the other PAC's, that distinction is invalid.

That is not to say that in this particular situation we should not support the position—

Mr. McCLURE. Mr. President, could we have order? I find it difficult to hear the Senator from Nevada and he is entitled to be heard.

I thank the Chair.

Mr. LAXALT. Mr. President, are we in order now?

The PRESIDING OFFICER (Mr. PELL). The Senator may proceed.

Mr. LAXALT. To continue with my thoughts, to summarize them briefly, it is my view that as to the political action committees, whether or not they represent special interests, special interests invariably are those insidious people who are on the other side of a political issue or in a political campaign.

We have authorized the political action committees. They function well.

I think that probably the answer to the defects we have in the process have been pretty well remedied by the requirement of full disclosure, and the fact that they have doubled in activity and the amount of contribution.

If they have trebled in size, fine. That is precisely what we want to restore, equality to the system, because for too long we found concentrated political activity on the part of the labor unions and the business and professional communities sound asleep. If we strengthen their hand, I think it is all to the better.

I find no justification at this time, either through discussions in the debate or otherwise, for any form of reduction, because we debated at length the $5,000 item. I think it was soundly supported at that time to be a reasonable level.

So I think this Senate, in the absence of any greater justification being made on the floor, would make a very serious mistake in supporting the Stevenson amendment.

Mr. CANNON. Mr. President, what is the time situation now?

The PRESIDING OFFICER. The time of the Senator from Nevada has expired. The Senator from Maryland has 5 minutes remaining.

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

The PRESIDING OFFICER. Has all time been yielded back?

Mr. CANNON. Mr. President, how much time remains on the prime amendment, the Stevenson amendment?

The PRESIDING OFFICER. The Senator from Nevada has 27 minutes and the Senator from Illinois has 14 minutes.

Mr. CANNON. If the Senator from Illinois is willing to yield his time back, I will yield mine back except for 15 minutes and I will yield that to the junior Senator from Nevada.

Mr. BUMPERS. Mr. President, a parliamentary inquiry. Have the yeas and nays been requested on the amendment of the Senator from Maryland?

Mr. CANNON. They have not.

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. CANNON. Is the Senator willing to yield back the time?

The PRESIDING OFFICER. Unless time is yielded further from the bill, the vote now occurs on the amendment of the Senator from Maryland.

Mr. STEVENSON addressed the Chair.

Mr. CANNON. Mr. President, a parliamentary inquiry. Would it not be proper for the Senator from Illinois and the Senator from Nevada to yield back the remaining time on the Stevenson amendment, at which time a motion to table would be in order?

The PRESIDING OFFICER. That is correct.

Mr. STEVENSON. I have no desire to prolong this issue. The point of my amendment is to reduce the ceiling on political action committees because the $5,000——

The PRESIDING OFFICER. Who is yielding time on this amendment?

Mr. CANNON. There is still time on the Stevenson amendment, Mr. President.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senator from Illinois may proceed on his own time, notwithstanding the fact that the Mathias amendment would otherwise be voted on.

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

Mr. STEVENSON. I thank the Senator from Maryland for giving me some time on my amendment, because otherwise I could only yield.

Mr. President, the trouble with the $5,000 ceiling on political action commit-

tees is that it increases the proportionate influence of political action committees in our political process at the expense of individuals. The proliferation of committees at that level is producing more and more money in our campaigns, the doubling of funds from such committees in the space of 2 years. It is not because that activity is inherently evil or because it should be eliminated that I propose this amendment. As amended, the modified amendment would bring it down from $5,000 to $3,000 in order to restore a healthy balance to the influence exerted by individuals and political action committees in elections for Congress.

Having said that, Mr. President, I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. Two minutes on the bill.

Mr. BAKER. Mr. President, I thank the distinguished manager of the bill.

This is a time when we are considering a whole range of election issues, a time when we have just dealt with the question of public financing and will no doubt continue, in the course of the day, to deal with other issues.

It is a time when, so far as I am concerned—and I believe so far as many others are concerned in this Chamber—we should reiterate our concern for electoral reform. My own preference is for a different type of electoral reform—for tax credits, for example; for 24-hour voting; for a national holiday on election day; and a range of other ideas that will occur to other Members and will be discussed thoroughly on this floor.

However, I think it is not time now, today, to change the ground rules. We should not change the nature of the opportunity and the authority of groups and committees to participate in the election process in this manner at this time.

So, while I am sympathetic to another range and type of electoral reform, I hope that these amendments will not be adopted.

Mr. CANNON. I yield 15 seconds to the Senator from Nevada.

Mr. LAXALT. A parliamentary inquiry, Mr. President. Is all time yielded back now?

The PRESIDING OFFICER. All except 15 seconds.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has not yielded back his time.

Mr. LAXALT. What is the parliamentary situation? Has all time been yielded back? Has the Senator from Illinois yielded back his time on the amendment?

The PRESIDING OFFICER. The time has not been yielded back on the amendment of the Senator from Illinois.

Mr. STEVENSON. If someone will yield some time to the Senator from Illinois, he will move to table the amendment by the Senator from Maryland.

The PRESIDING OFFICER. The Senator can make that motion without time being yielded to him.

Mr. STEVENSON. I do so, Mr. President.

Mr. LAXALT. Mr. President, I think I have the floor.

The PRESIDING OFFICER. The Senator from Nevada has the floor. The 15 seconds have expired.

Mr. CANNON. I yield the Senator another minute.

Mr. LAXALT. Mr. President, within that minute, before my time passes, I should like to move now to table the Stevenson amendment.

Mr. STEVENSON. Mr. President, I have already moved to table the Mathias amendment.

The PRESIDING OFFICER. The motion to table the Stevenson amendment is not in order until all time has been yielded back or used on that amendment.

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

Mr. STEVENSON. Mr. President, who has the floor?

The PRESIDING OFFICER. The question at this time is on the amendment by the Senator from Maryland, on which all time has expired.

Mr. STEVENSON. Mr. President, I ask unanimous consent that I may have 30 seconds in order to make a motion.

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

The PRESIDING OFFICER. The Senator does not need unanimous consent to make a motion. He needs time on the bill or unanimous consent in order to speak.

Mr. HATFIELD. Mr. President, reserving the right to object, I think the Senator already has stated twice that he has made a motion to table the Mathias amendment. If that motion has been made to table, as I understand it, then I think the vote occurs on the motion.

Mr. BAKER. Mr. President, will the Senator yield to me for a parliamentary inquiry? Will the distinguished manager of the bill yield for that purpose?

The PRESIDING OFFICER. The Senator from Illinois has made a motion to table the amendment of the Senator from Maryland, and all further debate on that is out of order, and the vote now occurs on the motion.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Maryland.

The motion was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Illinois.

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

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

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time, except for 15 seconds to permit a motion to table.

The PRESIDING OFFICER. If the time is yielded back, the motion is in order.

Mr. LAXALT. Mr. President, has all the time been yielded back, with the exception of the 15 seconds?

The PRESIDING OFFICER. The Senators do not need time.

Mr. LAXALT. I yield back the remaining time I have, and I now move to table the Stevenson amendment.

The PRESIDING OFFICER. The Senator from Nevada has moved to table the Stevenson amendment.

Mr. LAXALT. 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 Stevenson amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 63, nays 33, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—63

Abourezk	Hansen	Metzenbaum
Anderson	Haskell	Moynihan
Baker	Hatch	Muskie
Bartlett	Hatfield	Pearson
Bayh	Hathaway	Pell
Bellmon	Hayakawa	Randolph
Bentsen	Helms	Riegle
Brooke	Hollings	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Humphrey	Schweiker
Case	Inouye	Scott
Church	Javits	Stafford
Curtis	Johnston	Stennis
Dole	Laxalt	Stevens
Domenici	Long	Stone
Durkin	Lugar	Talmadge
Eagleton	Magnuson	Thurmond
Eastland	Mathias	Tower
Ford	Matsunaga	Weicker
Garn	McClure	Williams
Gravel	Melcher	Young

NAYS—33

Allen	DeConcini	Nelson
Biden	Glenn	Nunn
Bumpers	Griffin	Packwood
Burdick	Hart	Proxmire
Byrd, Harry F., Jr.	Heinz	Ribicoff
Chafee	Jackson	Roth
Chiles	Kennedy	Sarbanes
Clark	Leahy	Stevenson
Cranston	McGovern	Wallop
Culver	McIntyre	Zorinsky
Danforth	Metcalf	
	Morgan	

NOT VOTING—4

Goldwater	Percy	Sparkman
McClellan		

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PACKWOOD and Mr. HATFIELD addressed the Chair.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, will the Senator yield for 30 seconds?

Mr. PACKWOOD. Yes.

Mr. HATFIELD. Mr. President, I address my comments again to the minority side at this time. We still have 6 hours and 15 minutes of allotted time for amendments, and we are told by the leadership that we will finish the bill tonight, which means, without counting the rollcall periods, we will now be almost 10 o'clock tonight if we use all the time allocated for these amendments.

I only make this as a matter of record to indicate to Senators that we have this job ahead of us, and I hope we will be more conservative with our time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield for a unanimous-consent request to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Joe Heaton, of my staff, be accorded the privilege of the floor during vote and consideration of this measure.

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

Mr. BARTLETT. I thank my distinguished friend from Oregon.

Mr. PACKWOOD. Mr. President, I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask unanimous consent that Mr. Dale Wheeler, of my staff, be accorded the privilege of the floor.

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

UP AMENDMENT NO. 715

Mr. PACKWOOD. Mr. President, I send an amendment to the desk 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 Oregon (Mr. PACKWOOD) proposes unprinted amendment No. 715.

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

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

The amendment is as follows:

SECTION 1. INCREASE IN CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR THE UNITED STATES SENATE OR HOUSE OF REPRESENTATIVES

(a) INCREASE IN PORTION OF CONTRIBUTION CREDITABLE.—Subsection (a) of section 41 of the Internal Revenue Code of 1954 (relating to general rule for contributions to candidates for public office) is amended to read as follows:

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the sum of—

"(1) one-half of all political contributions (other than those described in paragraph (2)) and all newsletter fund contributions, and

"(2) 75 percent of the sum of all political contributions to—

"(A) individuals who are candidates for nomination or election to the United States Senate or House of Representatives for use by any such individual to further his candidacy for nomination or election to the United States Senate or House of Reprsentatives, and

"(B) committees, associations, or organizations (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to the United States Senate or House of Representatives for use by any such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to the United States Senate or House of Representatives,

payment of which is made by the taxpayer within the taxable year.".

(b) INCREASE IN MAXIMUM CREDIT LIMITATION.—Paragraph (1) of section 41(b) of such Code (relating to maximum credit) is amended—

(1) by striking out "$25" and inserting in lieu thereof "$100",

(2) by striking out "$50" and inserting in lieu thereof "$200", and

(3) by inserting before the period at the end thereof the following: "of which not more than $25 ($50 in the case of a joint return under section 6013) shall be determined under paragraph (1) of subsection (a)".

(c) IMMEDIATE CREDIT.—

(1) Section 41 of such Code (relating to ocntributions to candidates for public office) is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) IMMEDIATE CREDIT.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a), the credit allowed by subsection (a) with respect to any political contribution shall, upon application by the taxpayer, be allowed against the tax imposed by this chapter for the taxable year immediately preceding the taxable year in which payment of the political contribution was made.

"(2) AMOUNT OF CREDIT AND DETERMINATION OF POLITICAL CONTRIBUTION.—

"(A) AMOUNT OF CREDIT.—Except as provided in subparagraph (B), the determination of the amount of any credit allowed under paragraph (1) for the immediately preceding taxable year with respect to any political contribution shall be made as if the payment of such contribution was made in such preceding taxable year.

"(B) DETERMINATION OF POLITICAL CONTRIBUTION.—Any determination as to whether any contribution with respect to which a taxpayer is claiming the credit allowed under paragraph (1) is a political contribution shall be made on the basis of the taxable year in which the payment of such contribution was made.

"(3) TIME FOR MAKING APPLICATION.—

"(A) EARLIEST DATE.—A taxpayer may not file an application under paragraph (1) before the day on which the taxpayer filed his return of tax for the immediately preceding taxable year.

"(B) LATEST DATE.—A taxpayer may not file an application under paragraph (1) on or after the earlier of—

"(i) the due date for the filing of the return of tax for the taxable year in which the payment of the political contribution was made (determined without regard to any extension of time for filing the return), or

"(ii) the day on which the taxpayer filed his return of tax for such taxable year.

"(4) Inclusion in earlier return.—In lieu of making an application under paragraph (1), a taxpayer may elect to claim the credit allowed under paragraph (1) for the immediately preceding taxable year on his return of tax for that year if the payment of the political contribution for which the credit is claimed was made before the filing of that return.

"(5) In lieu of any other credit.—No credit shall be allowed for any other taxable year for any political contribution for which any credit is allowed under this subsection.

"(6) Treatment as claim for refund.—For purposes of this title, any application filed under paragraph (1) shall be treated as a claim for refund except to the extent that such treatment is inconsistent with the provisions of this subsection.".

(2) The Secretary of the Treasury shall publish and make generally available a form specifically designed to enable a taxpayer to apply under section 41(d) of the Internal Revenue Code of 1954, to have the credit allowed by section 41 of such Code applied to a preceding taxable year.

(d) Interest on Immediate Credit.—

(1) Section 6611(b) of such Code (relating to interest on overpayments) is amended by adding at the end thereof the following new paragraph:

"(3) Section 41(d) credit.—In the case of a credit allowed under section 41(d) for which an application has been filed under section 41(d)(1), from the 61st day after the receipt of such application by the Secretary to the date of the refund check, whether or not such refund check is accepted by the taxpayer after the tender of the check to him. The acceptance of the check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.".

(2) Section 41(e) of such Code, as redesignated by subsection (c), is amended to read as follows:

"(e) Cross References.—

"(1) For disallowance of credits to estates and trusts, see section 642(a)(2).

"(2) For interest on immediate refund, see section 6611(b)(3).".

(e) Repeal of Alternative Deduction for Political Contributions.—

(1) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized deductions for individuals) is amended by striking out section 218.

(2) The table of sections for such part is amended by striking out the item relating to section 218.

(3) Section 642 of such Code (relating to special rules for credits and deductions of estates and trusts) is amended by striking out subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

SEC. 2. EFFECTIVE DATES.

The amendments made by subsections (a), (b), and (e) of section 1 of this Act shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (c) and (d) of section 1 of this Act shall apply with respect to taxable years beginning after December 31, 1976, but only with respect to political contributions the payment of which was made in taxable years beginning after December 31, 1977.

Mr. PACKWOOD. Mr. President, this is the so-called tax credit amendment which has been discussed on numerous occasions during the debate on the public financing section of this bill.

It is a very simple amendment to the present existing law which already permits both tax credits and tax deductions for political contributions.

This amendment raises to 75 percent the tax credit that you are entitled to

take for contributions to Senate races or House races up to a maximum of $100, so that if you give $100 to a campaign you can take a $75 credit on your income tax. You cannot take more than 75 percent. If you give $1,000 you can still only take 75 percent credit up to $100. If you give any amount, that is the maximum amount of credit that you can take.

It eliminates the present deduction that you are entitled to take for a political contribution, and this credit is substituted for it. I have done that because, as we are all aware from arguments made on this floor in a whole variety of measures, tax credits are more favorable to lower and middle income taxpayers than tax deductions. Tax deductions are worth an immense amount more to those that have higher incomes, in higher brackets. But this amendment is worth the same to anyone who gives $10; they all get $7.50 off of their income tax.

That, in a nutshell, is the amendment. It is designed to encourage smaller contributions to political campaigns.

When we were discussing the public finance section of this bill, I made the argument over and over that there are millions of people in this country who will give $5, $10, or $15 to political campaigns if encouraged to do so. This political tax credit is designed to encourage such small contributions.

Mr. McCLURE. Mr. President, I wonder if we could have order. The background level of noise is almost overwhelming.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. That is the sum and substance of the amendment. It is simply and clearly designed to encourage small contributions. Certainly it is not designed for so-called large or special interest contributors, because they do not get 75 percent credit on everything they give; they get 75 percent credit on everything they give up to $100. The special interest group does not give $5,000 because it can get a very small credit; but an individual person will give $20, $25, $30, or $35 if he knows that on his income tax he can take 75 percent of that amount off of his tax liability.

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

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I would like to read into the RECORD a letter which I think is responsive to this amendment, from the Secretary of the Treasury. It reads:

The Administration is strongly opposed to H.R. 3340, a bill to increase the tax credit for political contributions to candidates for the United States Senate. The increased credit would be advantageous primarily to high-income taxpayers and would not provide meaningful incentives for public campaign support. At the same time, it would add several layers of complexity to the existing tax system and would hinder the development of tax reform proposals later this year.

Besides the inherent inequities and complexities of the increased credit itself, it is a seriously inadequate alternative to the check-off system. It violates several basic principles of public funding. H.R. 3340 does not require candidates to demonstrate substantial public support; it gives an advantage to the candidate currently supported by wealthy contributors; it does not remove even the appearance of obligation to special interest contributors; it does not give assurance of adequate overall minimum financing; and it encourages contributions to those who seek the first deductible or creditable dollars from a taxpayer. It makes no attempt to spread public funds evenly.

The primary effect of an increased credit would be a windfall for higher income taxpayers. The tax credit would be used primarily by high-income persons who would contribute anyway. State and Federal studies have shown that tax incentives for political contributions are used 25 times more by high-income than by low-income persons. Furthermore, surveys have concluded that even if all Americans were well informed about them, the benefits still would be taken much more often by high-income persons. Even among the group of contributors, low-income contributors simply are much less likely to take advantage of their tax incentives. These results contrast with the check-off system, which, studies have shown, is much more likely to be used by taxpayers proportionately in all tax brackets.

An increased credit would do little to encourage contributions to political campaigns and to broaden the base of political activity. Less than 3 percent of taxpayers use the current Federal tax incentives. State experiences confirm this conclusion.

The "quickie refund" feature of H.R. 3340 is unlikely to have a salutary effect on the credit's incentive value; at the same time, it creates an unwarranted administrative burden for the tax system. The Service would be required to pay moneys out of the Treasury even before candidates had qualified for contributions. New forms and new lines on existing forms, with alternative limits for the alternative levels of credit for the Senate and other campaigns, would add several layers of complexity to the existing system. It is likely that this increased complexity alone would diminish use of tax incentives, including the existing ones. Lower income persons, who do not have sophisticated tax assistance, would be those most discouraged from using the credit.

Finally, I would like to point out that the Administration is reviewing the existing credit and deduction in the process of developing its comprehensive tax reform proposals to be presented to the Congress this fall. It would be unfortunate if the existing system were substantially altered before the Administration has had an opportunity to review and present reform proposals.

The letter is signed W. Michael Blumenthal, Secretary of the Treasury.

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

Mr. NUNN. Mr. President, will the Senator from Oregon yield me about 3 minutes?

Mr. HATFIELD. Yes; I am happy to yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I support the Packwood amendment, and have for some time. I believe it does many positive things in encouraging individual contributions, and I believe it would substantially improve the incentive system for people to participate in political campaigns.

This amendment would simply increase the tax credit available for contributions to candidates for the Senate. The provisions of this amendment originally were introduced as S. 1471, and I understand they have been the subject of hearings in the Finance Committee.

I believe the consideration of this amendment is appropriate, because its enactment, if enacted, would in fact accomplish many of the laudable goals which the sponsors of S. 926 have set for this body, although I did not agree with the public financing section. This amendment would provide a real incentive for individuals to contribute to a candidate. Rather than indiscriminately showering funds on anyone interested in running for office, this amendment would encourage the citizens of this country to freely support the candidates of their choice. They would make the choice, they would decide which candidate they wanted to support, and they would make their contribution voluntarily, as opposed to the earlier version of this bill, which would have had the bureaucracy do it for them by sending out checks of taxpayers' money to anyone who actually qualified under the bill.

Moreover, as any Member of this body knows, once an individual contributes to a campaign, he is likely to become actively involved in one way or another, due to a sense of commitment to the candidate. This is the way to increase citizen participation in the electoral process, not by allocation of taxpayer funds by some Federal official, as originally envisioned in this bill.

Mr. President, I will not belabor the issue. I think it is a very clear and concise amendment, with nothing complicated about it. Simple logic indicates that by increasing the tax credit available for political contributions, we will encourage a significant increase in participation in the electoral process. With this in mind, I urge my colleagues to support the amendment.

Mr. PACKWOOD. I thank the Senator from Georgia for his support. Mr. President, I am prepared to yield back the remainder of my time.

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

Mr. PACKWOOD. Yes.

Mr. LONG. Mr. President, as the Senator well knows, this proposal was agreed to by the overwhelming majority, unanimously or almost unanimously, in the Committee on Finance.

I can recall occasions where we have sought to raise money by small contributions. Really, if one tries it, there is a lot of money that can be raised that way.

I recall when we made the effort for Adlai Stevenson, and we asked people to put up $5 apiece. Lots of people—working people, business agents for labor unions, and just a lot of good people at the grass roots level who were interested in politics—were willing to put up $5.

If we had this kind of amendment in the law, I will ask the Senator if it is not true that the same type of $5 contributions that were made available to Mr. Stevenson would be worth $20 in net cost to the taxpayers. Is that not correct?

That is at a time when we went out and raised $5 contributions prior to the time that they become deductible.

Mr. PACKWOOD. Pardon me?

Mr. LONG. At the time some of us were helping Governor Stevenson make his race for the Presidency of the United States, we found a lot of people who

would put up $5 and we would give a little receipt for it. It would not cost but the same $5, which was not deductible at that time, to put up $20 nowadays. Is that not correct, that is, by this amendment?

Mr. PACKWOOD. That is correct. It would amend the law.

Mr. LONG. The Senator from Florida (Mr. CHILES) has demonstrated how, by making an effort to get to a great number of people, one could finance the campaign by mere $10 campaign contributions, where the potential of doing that type of thing would be doubled by making this a 75-percent credit rather than a 50-percent credit; is that not correct?

Mr. PACKWOOD. Absolutely.

Mr. LONG. In most States people have not explored the extent to which they can finance a campaign by small contributions, but where people have really made the effort we have learned that people will contribute. It is just a matter of getting to people and trying to persuade them that it is in their interest to contribute.

Mr. PACKWOOD. In every instance where candidates have tried to collect small contributions they have succeeded. We just have not tried. This is a tremendous inducement to encourage them to try, and a very great inducement for people to give.

Mr. LONG. I can recall a race in Louisiana where just one man, who was not a politician, as such, but just managed to have something of a flair for getting along with people, went out in support of the candidate he favored. He wanted contributions of $5, with no one contribution exceeding $20. The man raised $25,000 to help the candidate he was supporting in a Governor's race. When explained to someone that they could have an immediate refund, it could then be worth $100,000 to a candidate; is that not correct?

Mr. PACKWOOD. That is correct.

Mr. LONG. So the potential has only been scratched. In areas where the effort has been made, I think it demonstrates that there is a great potential to raise money by small contributions.

Mr. PACKWOOD. An interesting survey was conducted by the 20th Century Survey Fund of Political Finance, the University of Chicago, in which they asked different income classes, "If you had money, would you be willing to give money to politics?"

In the class of zero to $5,000, 8.2 said yes; $5,000 to $10,000, 8; $10,000 to $15.-000, 4.5 percent; $15,000 to $20,000, 2.5 percent, and $20,000 and over, 0.8 percent, indicating that it is the lower income classes that disproportionately will use this if given the opportunity.

Let us be very serious. Major donors do not give money because they get a tax credit. That is not their principal incentive. But someone who can only afford to give $10, $20, $30, or $40, and the fact that they can take 75 percent off their income tax, has a great incentive.

Mr. LONG. I can recall many people, even my own little daughter, not old enough to vote, watching television to watch the elections because they wanted to be identified with a candidate they thought was a good man. If people can do that and be inspired to contribute and to help candidates of modest means to make the race for Senator, there is no doubt in my mind that that is a move toward better government and toward the reduction of the kind of influence all those who have said they would like to have public financing say they would like to reduce. The very idea of fixing it so someone can make an appeal on television for contributions, to explain to people that 75 percent of it would be a tax savings, in my judgment would be a very feasible way to raise money to finance campaigns, with the Senator's amendment in place.

Frankly, I also recall down through the years how the Treasury on other occasions seemed to have so little objection to offering a tax credit for 50 percent, let us say, of $25, or a deduction for a contribution up to $100. I can recall the time when we had a very prolonged fight over the $1 checkoff, and it was those on the Senator's side of the aisle who opposed the $1 checkoff. In that same bill, we had the provision, I believe, for the tax credit of 50 percent.

In spite of the furious opposition that existed against the $1 checkoff at that point there was no opposition to the tax credit on $25.

I must say that it sort of comes as a surprise to me to find that the Treasury seems to be all upset about the idea of a tax credit of 75 percent when they were not upset on a previous occasion under a Democratic Congress when we were trying to provide a $1 checkoff as well as a tax credit. The Senate was not upset about it. The Senate passed the 50 percent tax credit almost by unanimous consent, one would have thought, even though we had a very heated fight over the $1 checkoff.

Mr. PACKWOOD. I am particularly confused by the fact that the Treasury on the tax credit favors the large donors. The argument is usually made that the deduction is unfair. This is the first time I have ever heard a Democratic administration or any Democrats here proposing a tax credit saying it favors the rich.

Mr. LONG. Actually, a person in the 70-percent bracket is permitted to deduct the $70; is that not right?

Mr. PACKWOOD. It would be worth $70.

Mr. LONG. Under existing law, if a person is in a 70-percent bracket, he already has a $70 tax saving to make his contribution to a candidate for Senator.

Mr. PACKWOOD. That is correct.

Mr. LONG. But, by contrast, some person who is in a 14-percent tax bracket——

Mr. PACKWOOD. If they give $100 it is worth $14 to them. Under this amendment it is worth $75.

Mr. LONG. If we think in terms of who it benefits, the enormous benefit is to the person who is in the lower or low middle income brackets to make a campaign contribution. That is where the big gain is. That is who gets the benefit of it. In view of the fact that the high-income taxpayer already gets the benefit of a deduction against the 70-percent rate, which is worth 70 cents on the dollar, to me it is just a matter of the Treasury kind of casting about looking for arguments when we hear the kind of rejection made that we read in the Treasury letter.

Frankly, I find myself wondering, and I think I know the answer. Does the Senator think the Treasury wrote that letter before we acted on the checkoff yesterday, or did they write it afterward? I would suspect Treasury was writing that letter fearing that the Packwood amendment might be an impediment to using the $1 checkoff for entirely public funding. A great number of the objections that one hears spelled out by the Treasury were more or less generated to backfire against the Packwood amendment because they did not want it to impede or in any wise prejudice the action on the public financing with the $1 checkoff.

Mr. PACKWOOD. I think it is entirely possible.

Mr. LONG. The Senator will recall that the Treasury was before the Finance Committee making those same arguments.

Mr. PACKWOOD. Yes.

Mr. LONG. At that particular time they were hoping to have complete public financing of campaigns.

Mr. PACKWOOD. I would even make a bet that before the year is out, or before this Congress is out, this administration will be before us with a tax reform bill with a number of tax credit devices in it for which they will say the best reasons for them is that they benefit the poor.

Mr. LONG. I have no doubt about that. In fact, I think the Senator is right, that the most expensive item in their tax reform proposal will be a tax credit for the poor.

Mr. PACKWOOD. I agree.

I yield to the Senator from West Virginia.

Mr. HARRY F. BYRD, JR. The Senator from Louisiana mentioned that more and more individuals in the low- and middle-income brackets are making contributions to political campaigns. I think that is certainly the case and I think it is a good trend. To indicate the accuracy of the statement by the Senator from Louisiana, in the campaign in Virginia last year 12,000 individuals contributed to my campaign, and the average contribution was somewhere between $55 and $60. So I think there is a trend among the people to contribute to campaigns. I think it is a good trend. I think the more we can encourage individuals to give small amounts to political campaigns the better off our Nation will be.

I do not understand that Treasury letter at all. In the first place, it is a very demagogic letter, but besides that it is not an accurate letter, as the Senator from Oregon pointed out to the Senate.

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

Mr. KENNEDY. Mr. President, will the Senator from Nevada yield to me for 5 minutes?

Mr. CANNON. I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose the amendment of the Senator from Oregon for a number of reasons.

First of all, I think it is unconsttiu-

tional and I shall make a brief comment on that. It is a requirement of the Constitution as well as a matter of comity with the House of Representatives, that when we deal with a tax measure or measure affecting revenues, it must be a House measure, not a Senate measure. That is the constitutional requirement. That has been the tradition and it has been respected. I think that this amendment fails on that issue.

Mr. President, I think it fails as well on the question of the merits. There are a number of arguments against increasing the tax credit for political contribution.

First, the credit does nothing about low public participation. The tax credit is not an effective incentive for political contributions.

Only about 3 percent of households use the Federal tax credit and deduction. The participation has remained constant at this low level over the entire period 1972–75 for which data are available.

By contrast, participation in the dollar checkoff has increased dramatically and continuously, from 3 percent in 1972 to 27 percent in 1976 and 28 percent today.

Available State results also confirm the fact of low participation through the tax approach, no matter how well known the tax benefits are. The 1974 Federal returns in Wisconsin show the same pattern as Federal returns. California has offered its tax deduction since 1967; yet participation in 1972 was only 2.1 percent of returns.

And, nationwide, the percentage of voting-age Americans making contributions was the same in 1972, when the Federal options were first available, as in 1960 and 1964.

Second, the tax credit provides a windfall and disproportionate benefits to high-income persons.

The credit is a significant windfall for high-income taxpayers. A large part of the revenue loss goes to reward taxpayers who would be making political contributions in any event. According to Mr. Adamany and Mr. Agree in their expert study entitled "Political Money," published in 1975:

> The tax benefit is just a minor windfall received for doing what political contributors would do anyway.

In addition, the maximum tax credit is not obtained until an individual's total contributions reach $266.67, or 75 percent times $266.67, which equals $200. Few low- or middle-income taxpayers are in a position to give such amounts. The credit thus gives unnecessary rewards to $500 and $1,000 donors.

High-income groups—those with adjusted gross income of at least $20,000—are much more likely to use the credit/deduction than low-income groups—those with AGI under $5,000.

High-income groups were 27 times as likely to use the mechanism in 1972. In California in 1972, they were 46 times as likely to claim a deduction. In Oregon in 1970, they were 290 times as likely to take the credit.

In contrast, the dollar checkoff is being used more and more widely as it becomes more understood. And checkoff participants are more representative of all taxpayers in terms of income levels.

Finally, the credit provides no benefit at all for those who have no taxable income. Since the credit is not refundable, the lowest income groups are eliminated from its benefit.

Third is the problem of complexity and discrimination. The bill arbitrarily creates more favorable tax incentives for contributions to congressional candidates compared to candidates for President, Governor, mayor.

The bill creates two different levels of percentages—50 percent for noncongressional contributions and 75 percent for Senate contributions.

The bill also creates two different maximum credits—$50 for noncongression contributions, and $200 for Senate contributions.

It is doubtful that these differences would be meaningful for taxpayers. The complexity will impair the incentive and create confusion on the tax forms for all taxpayers.

Fourth is the problem of the "quickie refund." The quickie refund procedure establishes a precedent for immediate refund for all other tax credits, and it will create substantial administrative burdens on the IRS.

The IRS might have to provide refunds even before the candidates announced their campaigns. In addition, it is likely that IRS audit resources will be inadequate to check the taxpayer's right to the credit, whether the taxpayer actually owes taxes for the preceding year, let alone audit the credit on current returns.

The quickie refund in effect allows a one-year carryback of the credit. It also establishes a precedent for requiring the IRS to pay interest, even though it does not have time to check the validity of the credit. Moreover, the IRS would be required to issue new tax forms and set up new procedures to check these mid-year refunds.

Fifth, there is the problem of the large revenue cost. The tax credit as reported by the Finance Committee is estimated to cost $14 million in fiscal year 1977 and $21 million in 1978. The total cost of the bill for the 2-year election cycle is $35 million.

The estimated cost of the Senate public financing provisions in S. 926 was $14 to $18 million over the 2-year election cycle. Thus, the tax credit approach is twice as costly as the public financing approach.

Moreover, the IRS estimates that the administrative costs of implementing the tax credit will be $2.7 million.

The administration costs for S. 926 are estimated at $1.8 million for fiscal year 1978, or only two-thirds of the costs for the tax credit approach.

In sum, Mr. President, current law provides all the tax incentive needed from political contributions. Many of the defects of the proposed additional tax credit are also applicable to the smaller credit and the alternative deduction already available under current law. These defects will be compounded by the pending amendment.

The existing law already provides a large Federal subsidy for political contributions. The credit or deduction available under current law for political contributions produces an estimated revenue loss of $84 million in a Presidential election year; $74 million in a congressional election year; and $58 million in non-Federal election years, These revenue losses through the tax system are actually tax expenditures, or Federal subsidies, for political campaigns.

Mr. President, for all of these reasons, I hope the amendment will be defeated. As a matter of Senate procedure, it is unconstitutional in its present posture. On the merits, it is ineffective as an incentive for contributions. It is inequitable in distribution of its benefits between high- and low-income taxpayers. It adds major new complexity to the tax returns. It will impose a serious administration burden on the Internal Revenue Service. And it is costly to Treasury. I urge the Senate to reject the amendment.

The PRESIDING OFFICER (Mr. SARBANES). The Senator's time has expired.

Mr. KENNEDY. Mr. President, I ask for just a moment.

Mr. CANNON. I yield another minute.

Mr. KENNEDY. Mr. President, one final point. We will have a tax reform measure before the Senate. It is being prepared by the administration, where this issue and many others will obviously have ample opportunity to be aired. The administration has indicated that its proposals will be submitted in early September. We ought not to act prematurely on this amendment, until we see the administration's comprehensive proposals.

For these reasons, it is an unwise amendment. It is an unconstitutional amendment. It deserves to be defeated on a point of order. If it survives the point of order, it should be defeated on the merits.

Mr. PACKWOOD. Will the Senator yield?

Mr. KENNEDY. If the Senator from Nevada wants to yield me another minute, I shall be glad to yield for a question.

Mr. CANNON. I am glad to yield.

Mr. PACKWOOD. An upper income taxpayer in the 70 percent bracket already gets a 70-percent deduction under the present law for political contributions—$70. A person in a 14-percent bracket, who gives any money, gets a 14-percent deduction. How does this conceivably benefit the upper income taxpayer, who already gets a $70 deduction on his contribution?

Mr. KENNEDY. If I may just clarify my position. At the proper time, if the Senator wishes to offer an amendment only to eliminate the deduction, he can put me on as a cosponsor. We are talking about the small car carrying the freight train. I think that there is merit in the elimination of the deduction. I would certainly work with the Senator from Oregon to achieve it. But that small benefit of the amendment is far outweighed by the many large defects of the amendment.

Mr. PACKWOOD. The Senator will be

happy to know that the deduction is eliminated by this amendment.

Mr. KENNEDY. I understand that. But to go on to say that this provision justifies adoption of the whole amendment is wrong. The heart of the amendment is to expand a tried but unsuccessful way of encouraging those in the higher income brackets to participate in the political system. It is an unworkable, inequitable, and unconstitutional proposal.

The PRESIDING OFFICER. The Senator's additional time has expired.

Who yields time?

Mr. CLARK. Will the Senator yield 3 minutes?

Mr. CANNON. I yield 3 minutes to the Senator from Iowa.

Mr. CLARK. Mr. President, in reading the RECORD this morning, I saw that last night, the junior Senator from Oregon referred to the public financing of elections as proposed in S. 926 as "a piece of trash," to use his words, not mine.

I think the Senator from Oregon had complained that public financing does nothing to curb special interests in politics—does nothing to curb special interest in politics. I dare say there is absolutely nothing in this amendment that does anything to curb special interests—nothing. If that is the principal objection to S. 926, I think it would have to remain the principal objection to the pending amendment.

The Senator from Oregon has complained that the checkoff has been supported by only 27 percent of the people. The Senator from Massachusetts just said how many people have used the existing tax credit and tax deduction: 3 percent.

The Senator pulled out some polls the other day in defense of his amendment and said that there are some polls that have indicated that as many as 8 percent would use the tax credit—in certain income groups, he said. That is about a third of those that use the tax checkoff. So, if there is really a case to be made, as many people have argued here—the Senator's colleague from Oregon, the Senator from Michigan, and others—that the 27 percent is a poll in itself and does not, in fact, indicate support for public financing, I do not know how one can claim that the 3 percent who used this provision does, indeed, constitute great support from the American public. Indeed, I think the record would show that the vast majority of people who have had benefit from this are wealthy people.

The Senator has complained that public financing is too expensive; to use the term that has been bandied around here for 8 days, it is "a raid on the Treasury" to spend this public money to finance elections. Yet the Packwood amendment would, in my estimation, cost more—not less than S. 926, but more—to the American taxpayer than S. 926 would cost. I would say that is accurately described as a raid on the Treasury.

The Senator has complained that public financing will not encourage small contributions. The fact that we match all contributions of $100, the Senator said, would not encourage small contributions. There is no evidence that a bigger tax credit would do that in any sense of the word. Rather, as the Secretary of the Treasury has quite accurately stated:

> The primary effect of the increased tax credit would be a windfall for higher income taxpayers.

I think that explains the purpose and the intent of the amendment: a windfall for higher income taxpayers.

Mr. PELL. Will the Senator yield for 1 minute?

Mr. KENNEDY. Will the Senator from Nevada yield to the Senator from Iowa?

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. CANNON. I yield 2 more minutes to the Senator from Iowa.

Mr. PELL. I would agree with the Senator from Iowa had public financing gone through. But now that it has not gone through, I agree that it means more to a middle income or high income person than to a low income person.

Mr. CLARK. Yes.

Mr. PELL. But part of the results we wanted in public financing are achieved by this. I look on this as a candidate myself this coming time. I wanted public financing to go through. I do not like the idea of holding my hand out. But it did not go through and we are faced with that prospect of raising money.

I prefer a project like this, in changes which would at least encourage the number of small contributions, more than would otherwise be the case.

I think it is a poor second best to public financing.

Mr. CLARK. I appreciate the Senator's comments. My only reaction would be that, if that were the case, it seems to me the small contributor would have increased his use of the tax credit we already put into law. The fact is, in my judgment, according to the statistics I have seen, that they have not. It did not encourage more people to contribute.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in dealing with this issue in the Senate, we have to look at the evidence and review the studies on the effect of the current credit. Is that right?

Mr. CLARK. That is right.

Mr. KENNEDY. And the evidence is that the current credit is a windfall. If we look at the statistics over the period that the credit has been in place, both at the Federal level and also in the States, we find that it has been ineffective as an incentive for political contributions. It simply rewards wealthy taxpayers for contributions they would be making in any event.

Mr. CLARK. I think the Senator is exactly right.

Certainly, if S. 926 is a raid on the Treasury, this measure, which does absolutely nothing to stem special interest contributions, and costs more than public financing, would have to be described as a raid on the Treasury.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I am prepared to vote if the Senator from Nevada is.

Mr. CANNON. The Senator's time has expired?

Mr. PACKWOOD. Not expired, but I am prepared to vote.

The PRESIDING OFFICER. The Senator from Oregon has 3 minutes, the Senator from Nevada has 4 minutes remaining.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Is the point of order not in order until after the time is yielded back?

The PRESIDING OFICER. The point of order is not in order until either all time has been used on the debate on the amendment or yielded back.

Mr. CANNON. Very well. I am prepared to yield back.

Mr. PACKWOOD. Yes. I will yield back my time.

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

The PRESIDING OFFICER. All time for debate on the amendment has been yielded back.

Mr. CANNON. Mr. President, I make the point of order that unprinted amendment No. 715 violates article I, section 7, of the U.S. Constitution in that it infringes upon the prerogatives of the House of Representatives.

The PRESIDING OFFICER. Under the precedents of the Senate, points of order as to the constitutionality of a bill or amendments proposing to raise revenue will be submitted to the Senate for decision. The Chair has no power or authority to pass thereon, and the question before the body will be, Is the point of order well taken?

Under the unanimous-consent agreement entered into on yesterday, it was agreed there would be 1 hour of debate on the constitutional point of order on the Packwood amendment, if raised.

Who yields time for debate on the constitutional point of order?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Time is divided between the Senator from Nevada and the Senator from Oregon.

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, when the time has expired, is it in order to table a point of order?

The PRESIDING OFFICER. Upon the expiration of the time agreement under the unanimous-consent request, it would be in order to move to table the point of order.

Mr. PACKWOOD. Would that motion be debatable on tabling a point of order?

The PRESIDING OFFICER. The motion to table the point of order would not be debatable.

Mr. PACKWOOD. Mr. President, I will cite a number of precedents. It is not unusual at all for the Senate to attach a revenue provision to a Senate bill. I call attention to what we did on July 21, 1977, just a few days ago, on the black lung bill.

That bill was a revenue bill as it finally went to the House, but, as we added the revenue provisions, it was S. 1538. We added the provisions to it and in the unanimous-consent we held it at the desk

until there was an appropriate House vehicle to which it could be attached, and it was attached.

I am not contending we could send this Senate bill in its present form to the House as a Senate bill. But I am contending until it is sent to the House, we are not attaching and sending to the House a revenue bill.

I might recall to the Senate in 1973, S. 4, the Pension Reform Act. This was a substantial revenue bill at that time and I will quote from the Senator from Louisiana, as follows:

Mr. LONG. Mr. President, in a moment I will make a motion concerning further procedure on pension legislation. But first I would like to explain to the Senate what it is I intended to do.

In its action on S. 4, the Senate has approved major changes in our tax laws. If we were now to proceed to pass S. 4 under that number, the House would refuse to consider the bill on the constitutional grounds that revenue bills must originate in the House of Representatives.

The Senate may not originate revenue bills, but it may amend them. The Finance Committee has favorably reported H.R. 4200, a House-passed bill designed to continue the same tax treatment for survivors of servicemen and former servicemen under the recently enacted survivor benefit plan as formerly was available under the prior law.

I will move that everything the Senate has approved in its action on S. 4 be added as an amendment to H.R. 4200. In this way, we will meet any constitutional objections to House consideration of what we have done.

Mr. President, I have other precedents.

Until we try to send the House, or to send the House a Senate bill that has a revenue provision in it, there is nothing unconstitutional about this, and this Senate has done it time and again.

We have a vehicle on the calendar under the tax credit bill which I introduced, finished the Finance Committee and sits on the calendar.

All this Senate has to do is strip out the provisions of that bill, attach the provisions of S. 926 to it, send it to the House, and that is a revenue bill, and it will meet any requirements of constitutionality.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I do not know whether I have any people over here that desire to be heard on this matter. I am willing to yield time if there is.

Mr. ROBERT C. BYRD. Yes.

Mr. President, would the distinguished Senator from Oregon repeat what he just said with respect to our sending a Senate bill to the House, something to the effect that until we send the Senate bill to the House——

Mr. PACKWOOD. I do not know if I can repeat it verbatim, I will repeat the gist of what I said.

Mr. ROBERT C. BYRD. Yes.

Mr. PACKWOOD. That on many occasions we have added revenue provisions in the Senate to Senate bills—to Senate bills—and that was constitutional.

The only unconstitutional thing we tried to do would be to send a Senate bill to the House that had revenue provisions in it. On many occasions in the past, we have added these provisions to a Senate bill, and before it finally went to the Senate, substituted it for a House bill we had here.

We have a House bill on the Calendar, a tax credit bill. It would be simple to substitute the substance of S. 926, when we finish it, for that House bill on the Calendar and send it to the House.

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

Mr. CANNON. I yield 10 minutes to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Oregon presents a very interesting argument here. He admits that to add a revenue raising provision to a Senate bill would not be constitutional. He also indicates that until the Senate bill gets over to the other body, there is nothing wrong with our adding a tax provision here. He says that it does not become unconstitutional until it reaches the door of the other Chamber.

Then, he indicates that there is a House tax vehicle on the calendar, and that it would be a very simple matter to strip from that House vehicle the House language, insert his own tax language enacted by the Senate; nothing unconstitutional about that. Of course not. That has been done many times.

A House bill originating from the Ways and Means Committee is a perfect vehicle for the Senate to act upon, and the Senate can amend it or strike out all after the enacting clause, do whatever it wishes, and add its own language as to the tax aspect.

The Senator's argument is an excellent leapfrog argument. He indicates that it would be a simple matter to call up the House bill, which is a tax vehicle, and then write into that bill whatever provisions the Senator wishes to write.

That is not going to happen at this juncture. That is not going to happen. The Senate has before it S. 926, which is a Senate bill; it is not a House bill. The Senate does not have before it the tax vehicle—the House bill on the calendar to which the Senator alludes.

Let us not be fooled by the argument that it will be a simple matter: Just call up the House bill and substitute the Senate language for it, and that would cure any constitutional problems that otherwise might obtain in connection with S. 926.

Will the Senator accommodate me by giving me the number of the House bill?

Mr. PACKWOOD. Calendar 317.

Mr. ROBERT C. BYRD. I thank the Senator. The older I get, the further away I have to hold the calendar in order to read it.

There may be a future time when that bill will be called up in the Senate. I may very well motion it up myself. At that time, the Senate can work its will on it. But the Senate is not going to have that bill before it today. There will be no opportunity to add to that bill the language that the Senator has in his amendment, today or tomorrow or the day after tomorrow. So much for that argument. It is entirely impracticable, unworkable, and infeasible—I think that just about takes care of that argument.

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

Mr. ROBERT C. BYRD. I yield.

Mr. CASE. The Senator stated that the Senate would not have that bill before it today. That means it is because the majority leader chooses not to cooperate in bringing it before the Senate. Is that correct?

Mr. ROBERT C. BYRD. No. It is not a lack of cooperation.

Mr. CASE. Perhaps I have chosen the wrong word. The Senator has decided that it will not be brought up.

Mr. ROBERT C. BYRD. No. I am glad the Senator asked that question. It is the intention of the leadership to complete action on S. 926 today and then to go to the water pollution bill tomorrow—which is on the calendar—and then, upon the completion of that bill, to go to the foreign aid appropriation bill, in which the able Senator from New Jersey has great interest, and at some point along the line to take up the conference report on the clean air bill.

I believe this is about as full a platter as the Senate can digest during the remaining time before Sunday.

Mr. CASE. If the Senator will indulge me for a moment, it may help to clarify for some people my own position on this matter.

I anticipated that we might run into this. I believe and was increasingly convinced that the Packwood approach is the right approach and that the approach originally contained in this bill, especially after the primary was eliminated, was the wrong approach; and I doubted that we had a firm commitment that could bring the Packwood proposal into this legislation, without a firm commitment from the leadership. That is why I voted against cloture.

During all that period, I heard no offer made that would permit consideration of the Packwood amendment as a substitute for the public financing provisions of the bill. Therefore, I found it quite necessary to vote against cloture. If I am wrong about this, I am sorry, but there was a failure of communication. I think I am right.

The Senator, it seems to me, is confirming the fact that this was never intended, that it was either up or down on public financing in the general form of funds provided by the bill. Is that not correct?

Mr. ROBERT C. BYRD. At the moment, the distinguished Senator is attempting to explain his votes against cloture. I do not believe that I should comment on that matter. I do not know why the Senator voted against cloture.

Mr. KENNEDY. Mr. President, will the Senator yield on that question?

Mr. ROBERT C. BYRD. I yield.

Mr. KENNEDY. If the Senate were to decide that the Packwood amendment was proper, am I correct that it would open virtually any Senate bill to amendment by any tax or revenue raising measure? It would have that effect, would it not?

Mr. ROBERT C. BYRD. The Senator makes a very persuasive point. It would, indeed.

Mr. KENNEDY. Furthermore, am I correct that S. 926 is a Rules Committee

bill, rather than a Finance Committee measure?

Mr. ROBERT C. BYRD. There is no question about that.

Mr. KENNEDY. If we adopt the suggestion of the Senator from Oregon, the bill would go to the House as a Finance Committee bill. It would be returned to the Ways and Means Committee in the House.

Does the Senator think the House Ways and Means Committee would be prepared to accede on this kind of jurisdictional issue to the House Administration Committee, which would have jurisdiction over S. 926 in its present form?

Mr. ROBERT C. BYRD. I thank the Senator for the question and the point he has made in asking the question.

If this bill, S. 926, were to be sent over to the other body with the amendment attached, which the very able Senator from Oregon (Mr. PACKWOOD) seeks to attach at this point, it would be a simple matter of blue-slipping that bill and sending it back to us. They would not let it be brought up in the House.

Mr. KENNEDY. Furthermore, if the leadership were to call up a House revenue bill, as the Senator from Oregon suggests, I am sure it would be appropriate for him to offer his tax credit amendment, would it not, under the Senate rules?

Mr. ROBERT C. BYRD. Yes. Precisely.

Mr. KENNEDY. But that House bill would also be open to many other tax amendments that could also be offered and debated.

Mr. ROBERT C. BYRD. Exactly.

Mr. KENNEDY. We know that the administration is about to send us a comprehensive tax reform message in early September. We obviously will have an opportunity to debate this issue as part of those proposals, as well as a variety of other tax reform issues. I believe that is the procedure which is being urged by the leader.

Mr. ROBERT C. BYRD. That would be the proper vehicle, as the Senator from Massachusetts points out. I thank him for his very well articulated observations and the points he has stressed.

Mr. President, the tax credit plan alternative proposed by the distinguished Senator from Oregon, Mr. PACKWOOD, is subject to a point of order. The able manager of the bill has raised the point. The Packwood plan involves changes in the internal revenue code with respect to allowable credits and deductions for political contribution.

Article I, section 7 of the Constitution states:

> All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Under the precedents of the Senate, points of order as to the constitutionality of a bill or amendment proposing to raise revenue are submitted to the Senate for decision. The Chair has done that. The Chair does not rule on the point of order.

It is true that the Packwood plan does not "raise" revenues. Practically speaking, it will decrease revenues. This feature does not, however, remove the tax credit proposal from the reach of article I, section 7, which delineates an area of subject matter jurisdiction between the two Houses of the legislative branch. Original jurisdiction over revenue measures lies with the House of Representatives. The Senate is empowered to propose amendments to such bills—and to concur in House-passed measures, but it may not originate them.

We may argue about the custom that appropriation bills originate in the House of Representatives. The Constitution does not require that, but by custom they, as a general rule, have originated in the House of Representatives. But it is not by custom that revenue measures originate in the House of Representatives; it is by the express requirements of the Constitution.

It is important to emphasize that this section is jurisdictional. It does not attempt to define the extent or nature of the taxing or revenue-raising power of Congress. The definition and scope of that power is to be found elsewhere in the Constitution.

When the Constitution was adopted, the taxing power was set forth in—and circumscribed by—article I, sections 8 and 9, which of course were adopted at the same time as section 7. At that time, Congress was given the power to "lay and collect taxes, duties, imposts, and excises" by section 8, and prohibited, by section 9, from levying any capitation or direct tax except in proportion to the census.

Thus, when the framers drafted the jurisdictional section, section 7, the taxing power they had in mind was narrowly defined—duties levied on "goods, wares, and merchandise." The Supreme Court found that definition to be so circumscribed that it did not include the power to impose income taxes. A constitutional amendment—the 16th, adopted in 1913—was required to confer that power.

The evolution of the scope of Congress' taxing power is significant with respect to the jurisdictional issue between the two bodies and relevant to the point of order against this amendment. When the jurisdictional section was drafted, an Internal Revenue Code consisting of some 500 pages of fine print could hardly have been foreseen. There was no need to elaborate on the term "raising revenues" because the concepts of tax deductions and credits, carrybacks and carryforwards, depreciation and depletion allowances were not even on the horizon.

With the development of a complex body of taxation laws made possible by adoption of the 16th amendment, logic tells us that a revenue measure is any law providing for—or relating to—the assessment and collection of taxes. It is this commonsense view of what the taxing power is all about which gives life to the jurisdictional demarcation set forth in article I, section 7. Under that section, the House of Representatives has original jurisdiction over all revenue-raising bills, and this obviously does not preclude original jurisdiction over a particular bill which would decrease, rather than increase, tax receipts.

Mr. President, the amendment of the Senator from Oregon is clearly a revenue measure. It amends the Internal Revenue Code. It falls within the original subject matter jurisdiction of the House of Representatives. For the Senate to decide otherwise would be to strip article I, section 7 of the Constitution of any practical meaning.

Mr. President, I support the point of order, and if a motion to table that point of order is made, I hope that the Senate will reject the tabling motion and sustain the point of order that has been made by the able Senator from Nevada against the pending amendment.

Mr. PACKWOOD. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The time yielded to the Senator from West Virginia has expired. Who yields time?

Mr. PACKWOOD. I will yield on my time.

Is it the position of the Senator from West Virginia then that no revenue-raising measure at any time can be added to a Senate bill?

Mr. ROBERT C. BYRD. It is the position of the Senator from West Virginia that the Senate cannot add to a Senate bill, cannot originate a Senate bill, that deals with the raising of revenue, and cannot constitutionally amend a Senate bill by adding thereto an amendment that raises revenues.

Now, of course, the Senate can do it. What I am saying is, it would not be a constitutional action. It would be an act in futility because the House of Representatives, recognizing its jurisdiction and power under the Constitution with respect to the origination of revenue-raising measures, would rightfully send that measure back to the Senate and would thumb its nose at the Senate by attaching thereto a blue slip. So, I suggest that the Senate not engage in an act of futility.

Mr. PACKWOOD. Mr. President, in that case what the majority leader is saying is what he asked the Senate to do a few weeks ago was unconstitutional. He did not mind tacking on the black lung bill, a Senate bill, adding revenue provisions to it on this floor, which were evidently unconstitutional.

Mr. ROBERT C. BYRD. The black lung bill?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. It has not been sent to the House.

Mr. PACKWOOD. It has been held here for an appropriate House substitute.

Mr. ROBERT C. BYRD. For that reason.

Mr. PACKWOOD. But it is a Senate bill and it has revenue provisions in it, right, added on in the Senate, and that is why it is being held?

Mr. ROBERT C. BYRD. That is why it is being held, and if the Senator's amendment is added to this bill it should be held here, too.

Mr. PACKWOOD. That is right.

But the first question is, therefore, is the Senator saying that you cannot con-

stitutionally add a revenue provision to a Senate bill?

Mr. ROBERT C. BYRD. I answered the Senator's question. I said the Senate can add a tax revenue measure to a Senate bill but it would be an act of futility for it to send such a bill over to the House of Representatives.

Mr. PACKWOOD. Then let us separate the point of order, because the point of order is that it is unconstitutional to add this provision to this bill. The majority leader is saying that is not unconstitutional. That is different from an exercise in futility.

Mr. ROBERT C. BYRD. It would be an unconstitutional act. If the Senator feels for one moment that a tax provision added by the Senate to a Senate bill, if accepted by the other body, and later challenged in the courts, if the Senator is maintaining that the Senate action would hold up in court, I cannot agree with him.

Mr. PACKWOOD. No. The point of order is that it is unconstitutional to add this provision to the Senate bill.

Mr. ROBERT C. BYRD. It would be an unconstitutional action.

Mr. PACKWOOD. The Senator is saying that. All right. Then how did we add the revenue provisions constitutionally to S. 1538?

Mr. ROBERT C. BYRD. I am saying we held that bill waiting on the House vehicle.

Mr. PACKWOOD. Wait a moment.

Mr. ROBERT C. BYRD. When the House vehicle comes to the Senate, all after the enacting clause——

Mr. PACKWOOD. There are two questions.

Mr. ROBERT C. BYRD. All right.

Mr. PACKWOOD. One, can we add revenue provisions to a Senate bill?

Mr. ROBERT C. BYRD. I answered that question in the affirmative. Yes, but not constitutionally.

Mr. PACKWOOD. OK, yes. Then the constitutional point of order does not lie because the constitutional point of order is that it is unconstitutional to add my amendment to this bill.

Mr. ROBERT C. BYRD. The unconstitutional point is simply this: that it is not within the power of the Senate to originate a revenue-raising measure, and the Senator from Oregon is seeking to originate such a measure by virtue of his amendment. That is not allowed by the Constitution. That power and jurisdiction lie only with the other body.

Mr. PACKWOOD. What did we do on S. 1538?

Mr. ROBERT C. BYRD. The Senator seeks to continue to try to confuse somebody with what the Senate did on another bill.

Mr. PACKWOOD. We added revenue provisions on the floor of the Senate.

Mr. ROBERT C. BYRD. Yes, but that bill will never go to the other body, the House of Representatives.

Mr. PACKWOOD. That is correct.

I want to come back to the point that on the floor of the Senate we added revenue provisions to a Senate bill.

Mr. ROBERT C. BYRD. That is right.

Mr. PACKWOOD. That is constitutional?

Mr. ROBERT C. BYRD. I said we can do it. I did not say it was constitutional.

Mr. PACKWOOD. What is the Senator saying? Is it constitutional or unconstitutional on the floor of the Senate? There is an interesting precedent on that case.

Mr. ROBERT C. BYRD. Mr. President, let me repeat once more it is an unconstitutional action. The Senator will have to agree with me. First of all, does the Constitution give the Senate the power to originate revenue measures?

Mr. PACKWOOD. No.

Mr. ROBERT C. BYRD. The Senator's answer is "no."

Is the Senator's amendment a revenue measure?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. The Senator's answer is "yes."

Then if it is not within the power of the Senate to originate revenue measures, and if the Senator's measure is a revenue measure—which he admits—does it not logically follow that it is not within the constitutional power of the Senate to originate the Senator's amendment?

Mr. PACKWOOD. Exactly the same as S. 1538, exactly the same as the pension bill 4 years ago, S. 4, which became a very significant revenue bill, and we added revenue provisions in committee, and we added revenue provisions on the floor to a Senate bill.

I am not trying to do anything different to this bill than we did to the black lung bill, than we did to the pension bill. What you are saying is that those were held at the desk, and they were.

But the constitutionality comes not when we add the provisions of it on the Senate floor, or else what we did to S. 1538, what we did to the pension bill, what we did in 1959 and in 1965 to the Railroad Retirement Act were unconstitutional acts at the time. If we vote on this point of order, and if the Senator is sustained on this point of order, then any time anyone tries to add a revenue provision to a Senate bill before it ever gets to the House of Representatives it is going to be subject to this point of order.

Mr. ROBERT C. BYRD. Right. Exactly. If the point is raised.

Mr. PACKWOOD. OK. All right. I want the Senator to remember this.

Mr. ROBERT C. BYRD. I knew it before the Senator mentioned it.

Mr. PACKWOOD. It is amazing. I just want the record to show this now, then, that it is unconstitutional in the Senator's opinion.

Mr. ROBERT C. BYRD. I wish the able Senator would quit pointing his finger at me. [Laughter.]

Mr. PACKWOOD. It is unconstitutional for this body to add revenue provisions, and the Senator himself asked unanimous consent in the black lung bill that those revenue provisions be included—unanimous consent for an unconstitutional act.

Mr. ROBERT C. BYRD. No. I did not ask consent that they be included. If someone else did, the Senator could have objected, but, Mr. President, let me say this——

Mr. PACKWOOD. I could have objected, but I do not think yet the majority leader has the power by unanimous consent to waive the Constitution.

Mr. ROBERT C. BYRD. Oh, no, no, no. The majority leader does not have the power to do anything by unanimous consent if a single Senator objects.

What the Senator fails to see and the distinction he fails to note in this situation is that the black lung bill has been held at the desk awaiting the House vehicle.

Mr. PACKWOOD. I am proposing that this bill be held at the desk.

Mr. ROBERT C. BYRD. But what the Senator did not hear the majority leader say is that this bill is not going to be held at the desk.

Mr. PACKWOOD. No.

Mr. CASE. The Senator is answering that question the same way he answered my question. That is to say the majority leader wills that it will not be held at the desk. Is that not correct?

Mr. ROBERT C. BYRD. Oh, no, no, no.

Mr. CASE. I fail to get the distinction.

Mr. ROBERT C. BYRD. Let me make the distinction. The majority leader has the power of any other Senator to object. I can act within my capacity as a humble Senator from the great State of West Virginia. If a request were to be made that this measure be held at the desk, I have it within my power and capacity as a humble, lowly Senator from the State of West Virginia to object.

Mr. CASE. The Senator is only saying, then, not as majority leader but as ROBERT BYRD, a Senator from West Virginia, he will see it is not held at the desk.

Mr. ROBERT C. BYRD. Right. ROBERT C. BYRD. ROBERT C. BYRD from the State of West Virginia. [Laughter.]

Mr. CASE. I would never denigrate the Senator from West Virginia by eliminating his middle initial.

Mr. ROBERT C. BYRD. And the middle name is CARLYLE—CARLYLE. [Laughter.]

Mr. CASE. How is it spelled?

Mr. ROBERT C. BYRD. C-a-r-l-y-l-e.

Mr. CASE. That is the right way.

Mr. ROBERT C. BYRD. That is the right way. [Laughter.]

Mr. PACKWOOD and Mr. CANNON addressed the Chair.

Mr. CANNON. Mr. President, if the Senator will yield for a question, is it not also the fact in the case referred to that no point of order was made on the constitutional grounds and that here a point of order has been raised?

Mr. ROBERT C. BYRD. Exactly.

Mr. CANNON. If someone had raised a point of order on constitutional grounds then we would have found ourselves exactly in the situation we are in here now.

Mr. ROBERT C. BYRD. Yes, and the Senator knows there is an old principle of equity that one may not sleep on his rights, and if one does not raise a point of order, then what can he say? He slept on his rights. And then there is another principle of equity that requires one to

come into the court with clean hands, not unclean hands. If he sleeps on his rights, in one instance—fails to raise a point of order—then how should he expect to come into the court in a later case with clean hands, and expect the Senator from Nevada not to raise the point of order, and expect the Senate not to sustain the point of order.

Mr. CANNON. The Senator is exactly right, and I thank him.

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

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this has boiled down now to more than a trifle issue about the tax credit matter. What the Senator from West Virginia I think is saying is that had any single Senator objected any time along the way on those two Railroad Retirement Acts, the black lung bill, and the pension reform bill, and raised a constitutional point of order, that constitutional point of order would have lain and would have been validly upheld. In the past all of these revenue provisions we have added on the Senate floor were unconstitutional, and apparently now if anyone wants to go out and sue in court and challenge the constitutionality, it would be unconstitutional even though we subsequently put it on a House bill because the constitutionality was ad initio at the time it was added on the Senate floor.

Mr. ROBERT C. BYRD. Oh, no, no, if the Senator will yield, not if we put it on a House tax bill.

Mr. PACKWOOD. Wait.

Mr. ROBERT C. BYRD. That is the final act. That is the action of the Senate on a House tax bill.

Mr. PACKWOOD. So it is not unconstitutional when we put it on the Senate bill.

Mr. ROBERT C. BYRD. Let us go back to the Senator's premise.

Mr. PACKWOOD. No.

Mr. ROBERT C. BYRD. Yes. He spoke about putting it on a House tax bill, and the Senator can shake hands on that.

Mr. PACKWOOD. Are we going to have it out? [Laughter.]

What I am saying is that if I were the majority leader I am not sure I would necessarily want my position defended in the vote, because if it is defeated, any Senator can raise this point on constitutionality, and we are going to have a precedent for every revenue measure that might be offered to a Senate bill, and if he is sustained on this vote, the Senate is going to have to sustain it in the future.

Mr. ROBERT C. BYRD. Is the Senator implying that the Senator wants the Senate to believe we are setting such a precedent today by raising this point of order?

Mr. PACKWOOD. I think we are. I think we are by this vote.

Mr. ROBERT C. BYRD. May I ask the Chair if such a point of order has ever been raised in the previous history of the Senate?

The PRESIDING OFFICER. It is the Chair's understanding such a point of order has been raised numerous times in the past in the Senate and, of course, under the precedent such point of order is put to the body by the Chair.

Mr. ROBERT C. BYRD. Then we are not indeed setting a precedent, may I say to my friend.

Mr. PACKWOOD. What was the decision of the Senate in the 1959 Railway Retirement Act on the 44 to 41 vote as to whether this was constitutional? The vote was yes, it was constitutional, that we could indeed add a revenue provision. I am delighted that we have the precedent, and I appreciate the majority leader acknowledging that precedent.

Mr. ROBERT C. BYRD. Yes.

Mr. President, have there been precedents to the contrary?

Mr. PACKWOOD. Upon which the Senate has voted?

The PRESIDING OFFICER. It is the Chair's understanding that there have been.

Mr. PACKWOOD. Name one.

The PRESIDING OFFICER. If the Members will indulge the Chair we are searching precedents.

The following types of proposals originating in the Senate were returned by the House or decided by the Senate to be an infringement of the House's constitutional privilege with respect to originating revenue legislation. Such measures are providing for a bond issue, increasing postal rates on certain classes of mail matter, providing for a tax on motor vehicle fuel, an agricultural appropriation bill, and in a number of other instances.

Mr. PACKWOOD. Was that ruling that they were returned by the House?

The PRESIDING OFFICER. Or decided by the Senate to be an infringement of the House's constitutional privilege with respect to originating revenue legislation.

Mr. ROBERT C. BYRD. Mr. President, I thank the chair for indicating to the Senate that an action by the Senate today sustaining the point of order would not indeed be a precedent.

Mr. PACKWOOD. Might I ask——

Mr. ROBERT C. BYRD. If it were, so what? But it would not be.

Mr. PACKWOOD. Might I ask if every ruling that the chair has decided was on a Senate bill that was sent to the House?

The PRESIDING OFFICER. The proposals which the chair enumerated covered both proposals originating in the Senate and returned by the House or decided by the Senate to be an infringement of the House's constitutional privilege with respect to the matter of originating revenue legislation.

Mr. PACKWOOD. I am not sure, Mr. President. I think we might as well vote on the issue.

I might say that we have now six times since 1959, at least, added revenue provisions to Senate bills. On the 44 to 41 vote I mentioned a while ago, the Senator from Nevada was one of those who voted in support of adding the revenue provision to the Senate bill, and I am sure the Senator would want to maintain consistency on a constitutional issue.

Mr. President, I am prepared to vote.

Mr. CANNON. Does the Senator yield back the remainder of his time?

Mr. PACKWOOD. I am ready to yield back the remainder of my time.

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. ROBERT C. BYRD. Mr. President, before we proceed, if it is the intention of the Senator from Oregon to move to table, or the intention of any Senator to move to table the point of order that has been rightly raised by the Senator from Nevada, I hope Senators will reject the motion to table and support the constitutional point of order raised by the Senator from Nevada.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. PACKWOOD. I would rather vote it up or down. I am not moving to table.

The PRESIDING OFFICER. The time is under the control of the Senator from Oregon and the Senator from Nevada, the debate time on the point of order.

Mr. HART. Mr. President, will the Senator from Nevada yield me 1 minute to ask the majority leader a question?

Mr. CANNON. I yield 1 minute.

Mr. HART. The Senator from Colorado would like the majority leader's opinion as to whether a similar constitutional point of order against the revenue raising measures on the black lung bill would have been sustainable.

Mr. ROBERT C. BYRD. Well, the Senator asks me to respond to a question that is somewhat hypothetical in nature. I think we have passed that point. I do not think that has anything to do with this point of order. No point of order was raised in that instance. If a point of order had been then raised, it might have been sustained.

Mr. HART. Does the majority leader have no opinion on that question?

Mr. ROBERT C. BYRD. On what question?

Mr. HART. As to whether a constitutional point of order could have been legitimately raised on the revenue measures on the black lung bill.

Mr. ROBERT C. BYRD. Yes, I think it could have been, but was not, and that was why the Senate bill was held at the desk. It has not yet been passed. It was for that very reason, for fear that a constitutional question would arise in the courts, that the bill was passed through its various stages up to and including third reading, and held at the desk awaiting the House action on the House bill to be sent over here.

Mr. HART. Therefore what makes this amendment subject to the unconstitutionality point of order is the fact that the leadership wants this bill to go forward?

Mr. ROBERT C. BYRD. Oh, no. The Senator must not have been in the Chamber when I made my very eloquent, impressive, and persuasive argument.

Mr. HART. Unfortunately, I was.

Mr. ROBERT C. BYRD. Well, I would say that unfortunately the Senator does not hear well, and I do not believe I

should take the time of the Senate to attempt to persuade the Senator now, if he did not succumb to the magic spell of my rhetoric in the first instance.

Mr. HART. I thank the Senator.

Mr. BUMPERS. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. BUMPERS. I would like to make an observation, and if the Senator from Oregon would like to comment he may comment. I have a tendency to favor the amendment, but I am also persuaded that the point of order is probably well taken, because, as I understand it, the Senate has added revenue measures to bills throughout its history. Some of them have been accepted without the point being raised in the House, and some have been unceremoniously returned because the House felt its prerogative was being infringed upon. Is that correct so far?

Mr. PACKWOOD. Yes, we have added revenue measures to Senate bills frequently.

Mr. BUMPERS. Can there be any question that if this amendment is adopted and sent to the House, the House would be within its rights to send it back, under the constitutional prerogative?

Mr. PACKWOOD. The Senator may be right, but I am reluctant to give the House any more wiggle room than it has now. They use that interpretation so frequently that I am reluctant, by Senate action, to reinforce it.

Mr. BUMPERS. I think the answer would be yes, they will have the right to send this back. And if that is true, I cannot help but believe, under my own constitutional oath, that I am required to uphold the Constitution and, therefore, it is not a question of whether I will uphold it or am not going to uphold it.

Mr. PACKWOOD. As the Senator from Arkansas has clearly said, sometimes they send it back, sometimes they do not. All they have to do if they do not like this provision is take this provision out of the bill. They may choose not to send it back. Why should we make the decision?

Mr. BUMPERS. The point is, the point of order has been raised. If the point of order had not been raised, I would probably support the amendment.

Mr. PACKWOOD. But the point of order—and this is a very specific point of order—is, is it unconstitutional for us—because this is the point raised—to add a revenue provision to a Senate bill? Not to hold it at the desk or send it over; just to add a revenue provision to a Senate bill. My point is that that is probably constitutional, at this point.

Mr. BUMPERS. Well, no law is illegal as long as you do not get caught, I guess.

Mr. PACKWOOD. No; I think it is perfectly constitutional to add it here. We would never get a court challenge on something just in the Senate. But until a bill leaves this body and goes to the House, we may, it seems to me, still work our will on it. All these provisions may be tabled; the bill may be defeated. So until it goes to the House, there is no unconstitutionality; and to say, as we have done so many times in the past, that any time a Senator rises to add a revenue provision on a Senate bill we have not finished working on he is doing something unconstitutional, I think, is a very dangerous precedent, and I think it is very unwise for us to do it.

Mr. BUMPERS. I thank the Senator for yielding.

Mr. ALLEN. Mr. President, will the Senator yield me enough time that I might make a parliamentary inquiry?

Mr. PACKWOOD. I yield to the Senator from Alabama for that purpose.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Assuming that this bill passes the Senate without the Packwood amendment, it goes to the House of Representatives, is amended there, and comes back to the Senate, would not the Senator from Oregon at that time have an opportunity to offer this amendment without going counter to the constitutional provision, inasmuch as the bill had been in the House, they had acted on it, and sent it back with amendments? Would that not be an appropriate time to offer this amendment?

Mr. PACKWOOD. Well, there are——

The PRESIDING OFFICER. Was the question propounded to the Chair?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. As a parliamentary inquiry by the Senator from Alabama?

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. The Chair would observe to the Senator from Alabama that the Chair is required to put the question of constitutionality to the Senate. It must be submitted to the Members; it is not ruled upon by the Chair.

By the nature of the point of order, in the Chair's opinion, it must be submitted to the Members and is, therefore, a matter to be decided by the Members of the Senate, not a matter to be ruled upon by the Chair.

Mr. PACKWOOD. May I ask the Chair to state, for the information of Senators, how the Senate will decide the question? Is not the question this: Is it constitutional or unconstitutional to add a revenue provision to a Senate bill?

The PRESIDING OFFICER. The question which the Chair will put to the Senate is the question, Is the point of order well taken?

Mr. PACKWOOD. What is the point of order?

The PRESIDING OFFICER. The point of order has been stated by the Senator from Nevada.

Mr. PACKWOOD. Would the Chair restate exactly what the point of order is?

Mr. CANNON. I will be glad to restate it myself. The point of order is that unprinted amendment 715 violates article I, section 7 of the U.S. Constitution in that it infringes upon the prerogatives of the House of Representatives.

Mr. PACKWOOD. Is that the point of order, that it infringes on the prerogatives of the House of Representatives?

Mr. CANNON. That is precisely the point of order.

Mr. PACKWOOD. It is not a constitutional point?

Mr. CANNON. It is a constitutional point.

Mr. PACKWOOD. Let me ask it again. It is a constitutional point. The Senator is saying that to add this revenue provision, or any revenue provision, is unconstitutional? Is that the point?

Mr. CANNON. Let me read from the Constitution.

Mr. PACKWOOD. I know the Constitution. I just want to make——

Mr. CANNON (continuing). State it to me.

Mr. PACKWOOD. I want to make sure I understand the point of order which has been raised.

Mr. CANNON. Article 1, section 7 of the Constitution says:

> All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

That was precisely the language which Senator BYRD read a few moments ago. That is the basis on which the point of order is made.

Mr. ALLEN. Will the Senator yield me 1 minute?

Mr. CANNON. I do not know how much time I have left.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. CANNON. I yield 1 minute.

Mr. ALLEN. Mr. President, I favor the Packwood amendment. I would like to have an opportunity to vote on it.

I do believe that it goes counter to the Constitution as being a revenue measure. But I am also of the opinion that if this bill is passed without the Packwood amendment and goes to the House, is amended there, and comes back over here, then this amendment could properly be added to the House amendment to the Senate bill, because it would then have gone through the House. I believe the Senator would have his day in court in that fashion. I do not believe that it is proper at this time.

Mr. PACKWOOD. I would conclude with these remarks: First, it will not come back to the Senate. It will come back to conference. We will not have it back on the floor.

Mr. ALLEN. The Senator does not have to go to conference. He can propose, instead, an amendment to their amendment.

Mr. PACKWOOD. Second, the majority leader and Senator CASE had a debate. This problem could be handled by simply amending Calendar No. 317 at the desk, which is nothing more than the so-called tax credit approach. There is nothing else in that bill. By a simple substitution of S. 926, the substance of it, if we finally finish it, for that bill, we could cure any constitutional problem. Now, however, the majority leader says we are not going to do that.

Mr. ROBERT C. BYRD. Not today, or tomorrow, or the next day. We may do it at a future time, in which case the Senate would not be infringing upon the prerogatives of the House.

Mr. ALLEN. Will the Senator yield?

Mr. CASE. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Have I any time remaining?

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Oregon still has 6 minutes remaining and the Senator from Nevada has 4 minutes remaining.

Mr. PACKWOOD. I yield such time as the Senator from New Jersey desires.

Mr. CASE. Mr. President, I believe this matter really has been amply debated, and debated very well indeed by the majority leader, by the Senator from Oregon, and others who have discussed it. But I do want, because I sense a desire to do the right thing on the part of my colleagues, to put the matter in this light and suggest that this is the way it ought to be regarded:

We know what the Constitution says, and we know what the Senate has done in the past. We know that legislation of this sort has been added, has not been objected to in the Senate, and not returned by the House. It has become law. No one would suggest that if that were followed here the product would be unlawful, unconstitutional, or in any way ineffective. So what is proposed is not an unnatural action. It is proposed that we take a course which has been followed many times before.

I do suggest that we should be quite willing to take that course and leave to the House the decision of whether its prerogatives are infringed upon or not.

There is not really any such thing as a thing unconstitutional in limbo, inherently unconstitutional. It is only unconstitutional in this sense, that the House may decide that in the circumstances it ought to resist the Senate's action. So what we really are deciding here is not a question of constitutionality in the abstract. It is a question of whether we want this provision in law.

There is no incompetence in the Senate to take this course if it wishes to do so. It only makes it possible in the case of a bill not a House bill, for the House to return it to us. So I do not think we ought to regard ourselves as now passing upon a question of the sacred constitutionality of procedure of the Congress or of the Senate. It really is a question of do we want it, do we want to propose it to the House and let the House make the decision?

It is not up to us to decide when the prerogatives of the House are infringed upon but, rather, for the House itself to decide. All we would do is to give them that opportunity.

Mr. DECONCINI. Will the Senator yield 1 minute?

Mr. PACKWOOD. I will be happy to.

Mr. DECONCINI. I, too, commend the two principal debaters on this issue. Even though I am a newer Member, I have experienced an episode with the House where they used the origination clause of the Constitution to send a bill back to the Senate or to just flat say, "It will not be considered."

I submit we ought to help them. They are perfectly capable of exercising the origination clause in the House, and they will do it. They have done it frequently. What we are doing here today is sort of saying, "Well, we want to help them decide that issue by deciding it in the Senate," when historically we pass revenue measures here and feel quite comfortable with the House exercising its prerogative, which they use unabashed, which they have a right to use unilaterally, which no court and no Senate can do anything about.

I see no reason to break with the precedent that we will let them exercise that prerogative and turn down this point of order. There will be ample time for them to determine what it is they want to do about a Senate bill, if, as a matter of fact, the body called the House so determines. It is not an abstraction at all. It is a decision on their part. They exercise it, and they will, with great ease. Why should we help them here today by deciding that for them in the Senate?

Mr. ALLEN. Will the Senator yield?

Mr. DECONCINI. I yield.

Mr. ALLEN. It is not just a question of whether the House wants to exercise their right to originate. It is a question of the legality of the measure. It is not just a House of Representatives matter. It is a question of whether the bill did originate in the House or in the Senate. If it originated here, it would not be legal. It could not be upheld. It is not up to the House to waive that.

I suggest to the distinguished Senator from Oregon there are revenue bills coming through here all the while. The distinguished Senator from Louisiana pulls one out of the hat every now and then on which he wants to tack something. We all know that. I understand there is a tariff bill coming very soon. This measure could be put on that. The Senator could have his day in court then. He would have the opportunity to attach it to a more important bill that would have to be enacted by the Congress. There would be strong argument for that.

I believe the Senator would have a better chance to have his day in court at a later time. Understand, I do support the amendment, but I do not want to see us go contrary to the Constitution.

Mr. PACKWOOD. I appreciate the support of the Senator from Alabama. I know he has been one of the strongest supporters of this tax credit. I will say in conclusion we are not originating tax legislation. When we send a piece of legislation from this House to the other House, by adopting an amendment here that is not necessarily a conclusive action. We have done it many times in the past. If the point of order is, Is it constitutional to adopt this amendment, it is, indeed, within our prerogative to adopt it?

Mr. BUMPERS. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. BUMPERS. The Senator from New Jersey has spoken along the same lines. If we say it is unconstitutional until the House acts upon it, are we, in effect, saying that the point of order would never lie?

Mr. BAKER. Mr. President, perhaps Watergate, like the world, is too much with us, but it remains and, one hopes, will remain as the most comprehensive and exhaustive examination of the American political process that has ever been conducted. It is a history we should well remember not only for its dramatic and painful aspects, but also for the many necessary and meaningful reforms, many of which are now law, that were seen then as necessary to restore the public trust in the political process.

In my mind, the most important lesson that we should have learned is participation in the political process is too precious and important a responsibility to be entrusted to the very few. If nothing else, Watergate should have told us that participation in the political process is a public responsibility that should and must be shared throughout by as many Americans as are willing to undertake it.

Many of the ills of Watergate were the result of a very few, very wealthy participants who were able to exert their influence far out of proportion to their role as citizens. To the degree that they were able to do this, the public was excluded from the process. It is perversely ironic that the legislation that we were considering until last night, however well intentioned, would have served only to perpetuate that exclusion.

I have no quarrel with special interest, Mr. President. The right of citizens to band together and collectively enhance their individual points of views on issues of concern to them is fundamental to the democratic process. What special interest must not be able to do is unduly to influence the selection and operation of the Government. To correct that abuse we have, following the recommendations of the Watergate committee, enacted reasonable limitations on the amount of contributions and requirements for disclosure of contributions and campaign expenditures. I believe that we should go further because there are some special interest expenditures that remain undisclosed and perhaps we will; but even if we do, we are still ignoring the most important lesson that we should have learned from Watergate—the need to encourage broad public participation in the democratic process.

We have before us, Mr. President, the opportunity to act on this most meaningful reform. At the request of my good friend and colleague from Oregon, Senator PACKWOOD, I, Senator TALMADGE, and Senator NUNN introduced a proposal to expand the tax credit for contributions to senatorial campaigns. It is a modest credit with a 75-percent rate and a maximum individual credit of $100, but it allows the individual who should be participating the incentive to become involved.

I believe the American people deserve an expanded opportunity to participate in the political process. That is why I and so many of my colleagues on both sides of the aisle have resisted the passage of public campaign financing that would have gone so far toward diminishing the role of the individual citizen. We have had a full, fruitful, and constructive discussion of that legislation;

we have informed ourselves and the American public of the true impact that that legislation would have had, and I would hope that we may turn to the meaningful alternative that the Senator from Oregon is offering.

Mr. President, I urge my colleagues to consider seriously the prospects of a truly meaningful reform which is embodied in the Packwood proposal; I would urge that we turn to the consideration of that proposal and provide an opportunity for greater participation to the individual citizen; and if we do that, Mr. President, I would consider the past week of debate time very well spent.

The PRESIDING OFFICER (Mr. METZENBAUM). The time of the Senator from Oregon has expired. The Senator from Nevada has 4 minutes remaining.

Mr. CANNON. Mr. President, I am ready, again, to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. PACKWOOD. 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. CANNON. Will the Chair restate the question?

The PRESIDING OFFICER. The question is, Is the point of order well taken? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—53

Abourezk	Durkin	McIntyre
Allen	Eagleton	Metcalf
Anderson	Ford	Metzenbaum
Bayh	Glenn	Moynihan
Bentsen	Gravel	Muskie
Biden	Hart	Pell
Bumpers	Haskell	Proxmire
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Humphrey	Riegle
Cannon	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Johnston	Stennis
Clark	Kennedy	Stevenson
Cranston	Leahy	Stone
Culver	Long	Talmadge
DeConcini	Matsunaga	Williams
	McGovern	Zorinsky

NAYS—43

Baker	Hatfield	Packwood
Bartlett	Hayakawa	Pearson
Bellmon	Heinz	Roth
Brooke	Helms	Schmitt
Case	Hollings	Schweiker
Chafee	Javits	Scott
Curtis	Laxalt	Stafford
Danforth	Lugar	Stevens
Dole	Magnuson	Thurmond
Domenici	Mathias	Tower
Eastland	McClure	Wallop
Garn	Melcher	Weicker
Griffin	Morgan	Young
Hansen	Nelson	
Hatch	Nunn	

NOT VOTING—4

Goldwater	Percy	Sparkman
McClellan		

The PRESIDING OFFICER. On this vote, there were 53 yeas, 43 nays. The point of order is well taken.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the point of order was well taken.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I wonder if I could have the attention of the majority leader for a moment so that we might——

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Will the distinguished manager of the bill on this side yield time?

Mr. HATFIELD. I yield the minority leader 2 minutes.

Mr. BAKER. I thank the distinguished Senator from Oregon.

Mr. HATFIELD. I yield 3 minutes on the bill.

LEGISLATIVE PROGRAM

Mr. BAKER. Mr. President, I should like to take this opportunity, while we are here and while the majority leader is on the floor, to inquire whether he can give us some views on the likely schedule of business for the remainder of this week.

Mr. NELSON. Mr. President, may we have order so that we can hear the majority leader?

The PRESIDING OFFICER. The Members of the Senate will retire to their seats.

Mr. ROBERT C. BYRD. Mr. President, in response to the query by the distinguished minority leader, it would be the intention of the leadership to complete action on the pending measure tonight. This, I do not think, should require the Senate to be in too late. As I understand it, there are enough amendments remaining which would carry us 2 hours and 30 minutes, without rollcall votes. But I think it can be reasonably anticipated that all the time on those amendments will not likely be taken.

So if we complete action on the pending measure today, the Senate would likely come in at 9 o'clock tomorrow, start on the water pollution measure, on which there is a time agreement, and follow action on that measure by taking up the foreign aid appropriation bill, on which there is a time agreement, and hopefully complete action on both those measures tomorrow.

In any event, when the House sends over the conference report on the clean air measure, the Senate will take that up. I think it is imperative that the Senate complete action on the clean air measure before going out for the August recess.

Under the resolution of adjournment which was acted on by the Senate last Friday, the Senate will be in session on Saturday. If, however, action is completed on the water pollution measure and on the foreign aid bill and on the Clean Air Act conference report by Friday night, the session on Saturday would merely be pro forma, with no speeches. If the Senate cannot complete action on these measures by Friday night—and I have particular reference to the Clean Air Act—the Senate will be in on Saturday to continue action on that measure.

I called the Speaker earlier today and urged that the Clean Air Act conference report be sent over to the Senate as soon as it can be done. He indicated that it would come over tomorrow. I have an impression that it might be tomorrow evening or certainly late tomorrow afternoon before that conference report is sent to the Senate. I hope it will be earlier than that. The Speaker said he would do his best to send it over as early as possible.

In any event, I have also asked the Speaker to return the papers on the adjournment resolution.

I have already entered a motion to reconsider the Senate action on that resolution. If the Speaker returns the papers and in the event that we reach a situation in extremity and need to reconsider our vote on the adjournment resolution, then that motion would not be debatable. I hope we will not reach that kind of situation. But I think it is incumbent upon Congress to act finally on the Clean Air Act before it goes out for the August recess.

If Congress does not do so, the President might feel constrained to call Congress back; and I think he not only should do so but would. However, I do not want to see that happen. I feel that we have the responsibility here to determine whether or not our work is completed and to make our own judgment. That would be my purpose in moving to reconsider the adjournment resolution.

I would simply attempt to amend that to provide that the leadership on this side of the aisle and the leadership on the other side of the aisle in both Houses could call Congress back into session. If there is any calling back, I want it to be by Congress, not by the President. I want us to recognize our own responsibility in that regard. So I hope that will not happen.

I have done as well as I could do, I think, in laying out what the problems are. This will mean that we will be in session certainly to a late hour tomorrow and a late hour on Friday. If we do not complete action on Friday on the clean air conference report, we will be in on Saturday. I have no choice.

I think Senators in this instance would be wise in making their plans accordingly, not counting on having dinner at home early—that is, if they do not want to miss any votes. I say that in the proper spirit, and I know it will be accepted in the proper spirit. It is the hope of the leadership to announce to Senators, when it can see what the situation is far enough in advance, to let them know if there is going to be a late evening, and that is what I am doing now. It will be a late evening today. It will be a late evening tomorrow. It will be a late evening Friday, and we could be in on Saturday. I hope we will not be. But it is also pos-

sible that we could be in session into next week.

Does that answer the distinguished minority leader's question?

Mr. BAKER. I thank the majority leader. I share with him his concern about finishing this schedule of legislation.

I note that there are only two matters on here other than the clean air conference report. While the majority leader points out that on two matters, water pollution and foreign aid, there are time limitations, there is no time limitation on the Clean Air Act conference report.

I hope the Speaker will honor the majority leader's request to get that conference report to the Senate as soon as possible, so that we can turn to its consideration. I know there is great interest in that matter here, and I should like to see us proceed as expeditiously as possible to its consideration.

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

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. So that the Senate might be advised of what might transpire in that matter, so far as I know, the legislative language is now completed by the staff. The statement on the part of the managers is being completed. It will be completed and filed before midnight tonight.

There are some questions concerning language in the bill and in the report which were resolved by the conferees, but there is always the possibility of a slip between the agreement and the execution.

There are some who are interested in the precise language who cannot forecast their response until they see the precise language. If the matters that were resolved in the conference are carried forward in that spirit in the language and in the report on the part of the managers, then I would think that the major likelihood of a prolonged discussion or an attempt to recommit the conference report might be avoided. However, if that language does not adequately reflect the agreement that was arrived at, I think it would be fair to say that there very likely would be an attempt to recommit, to reform that language to the agreement which was arrived at during the conference. I thank the Senator for yielding.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his observations.

Mr. ALLEN. As I understand the majority leader, he does hope to bring up the clean air measure before the foreign aid; is that not correct?

Mr. ROBERT C. BYRD. I am sorry, I did not hear the distinguished Senator.

Mr. ALLEN. I understood the distinguished majority leader to say he was going to seek to bring up the clean air conference report ahead of foreign aid; is that correct?

Mr. ROBERT C. BYRD. Not if the clean air conference report has not arrived in the Senate Chamber by the time the Senate completes action tomorrow on the water pollution bill.

If the Senate completes action on the water pollution bill before the conference report arrives at the Senate, the Senate will then proceed to the consideration of the foreign aid bill.

Mr. ALLEN. He does put high priority on clean air at this time?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. So if we were on the foreign aid bill, it might be conceivably the position of the distinguished majority leader to bring up the conference report; is that not correct?

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. ALLEN. I did not understand him to say that passage of the foreign aid bill was a sine qua non to preventing the Saturday session.

Mr. ROBERT C. BYRD. Well, the Senate is prepared to stay in session Saturday to complete action on these three measures.

Mr. ALLEN. I did not understand the distinguished Senator talked about the fact that passing the foreign aid bill at this time was of such importance or immediacy that it required action before the recess.

Mr. ROBERT C. BYRD. Oh, yes, I am sorry if I did not make myself clear. I fully realize that the Senator from Alabama, under the time agreement, has some amendments on which there is no time limitation. So it is quite possible that the Senate will be unable to complete action on the foreign aid appropriation bill before Saturday night at midnight.

Mr. ALLEN. Well, has the Senate requested the return of the adjournment resolution?

Mr. ROBERT C. BYRD. Yes, the Senate voted yesterday to request the return of those papers, and I have today asked the Speaker to facilitate the return and accommodate the wishes of the Senate if he could, and he indicated he would do so.

Mr. ALLEN. I thank the Senator.

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

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. DURKIN. There is no question of the Coal Conversion Act. Is that going to be put over?

Mr. ROBERT C. BYRD. The distinguished Senator raises a question with respect to the Coal Conversion Act. It is not the intension of the leadership to call up that measure before the August recess because no time agreement has been reached thereon.

Mr. DURKIN. I thank the Senator.

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

The PRESIDING OFFICER. The Senator from Pennslyvania.

UP AMENDMENT NO. 716

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment number 716:

On page 70, line 2, strike the following: "solicit,"

Mr. HEINZ. Mr. President, I intend to be very brief on this amendment.

AMENDMENTS TO THE FOREIGN AID APPROPRIATIONS BILL

Mr. ALLEN. Mr. President, will the Senator yield for 30 seconds?

Mr. HEINZ. I would be pleased to yield.

Mr. ALLEN. I send to the desk several amendments I have to the foreign aid bill.

[Laughter.]

Mr. ALLEN. I thank the Senator for yielding.

Mr. HEINZ. Is the Senator from Alabama now wholly accommodated?

Mr. ALLEN. Yes. I thank the distinguished Senator from Pennslyvania.

Mr. HEINZ. Mr. President, first, I would like to indicate that Senator STEVENSON and Senator MATHIAS are cosponsors of this amendment, which is a very simple amendment. Senator CANNON and I debated earlier today a very similar kind of amendment.

Very simply, the purpose of the amendment is to prohibit a Senate employee designated under Senate rule XLIV to handle campaign money from doing any soliciting in any Federal building.

We have decided that it is all right for one or two Senate employees to receive, to solicit, to be involved in campaign finance matters. But unless this amendment is adopted the bill before us allows that kind of fundraising activity to take place in Members' offices. I do not think that many of us—although there may be a few—would really want that to happen.

Therefore, my amendment, Mr. President, strikes the word "solicit" from the bill where it appears on page 70, line 2. I would simply point out that what we are talking about by striking that word is to continue the current prohibition against a Senate staffer to solicit campaign contributions on Federal property—and that includes Members' offices.

We do not want our staff, who are being paid for at taxpayers' expense, while working in offices maintained at the taxpayer's expense, using a telephone paid for by the taxpayers, to solicit campaign contributions.

We do not want our offices, I am sure, turned into any kind of trading post, thieves' market, flea market, call it what you will, for the political activities of fundraising.

If the Senate employee wants to do it at home, that would not be prohibited. I hope, Mr. President, the Senate will accept this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, this is the same exercise we went through earlier with the distinguished Senator from Pennsylvania.

I would point out that the word "solicit" in line 2, page 70, is what is re-

quired by Senate Resolution 188 which the Senate has adopted. This just says that subsection (a) shall not apply to two assistants to a Senator of the United States, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to "receive, solicit, be the custodian of," and so on.

Well, they have been designated by that Senator to receive, solicit, be the custodian of or distribute funds in connection with the campaign pursuant to rule XLIX of the Standing Rules of the Senate, and also of Senate Resolution 188. So we have gone through this before, and if the Senator is prepared to yield back his time, I am ready to have a vote.

Mr. HEINZ. Mr. President, first, I would like to ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. HEINZ. I thank my colleagues, and in 1 minute I will be prepared to yield back the remainder of my time.

I just want to say to my friend from Nevada that, of course, Senate Resolution 188 does not require any staff member to go out and solicit funds. I would hope it does not require anything of the kind. It does permit a Senator first to designate two staff assistants who might do that. But, of course, the issue that is before us is not trying to modify Senate Resolution 188 or rule XLIX of the Senate rules. That is not at all what we seek to modify.

It is simply a question of whether we want to maintain, in effect, section 603, title 18 of the United States Code, which makes it a criminal offense for somebody to solicit campaign contributions on Federal property.

If we do not pass this amendment, then Senate employees will be the only Federal employees to whom this criminal penalty does not apply, and I do not think that is something we really want to do, Mr. President.

If the Senator from Nevada is prepared to yield back his time, I will yield back my time.

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

Mr. President, I will withhold that.

Mr. ALLEN. For just a moment. Let me ask a question.

Mr. CANNON. I yield to the Senator from Alabama 2 minutes.

Mr. ALLEN. Does the Senator understand it is against the law at the present time for one employee of two employees of a Senator's office to solicit funds? This has not got anything to do with the Federal building.

Mr. HEINZ. Is the Senator from Alabama addressing the Senator from Pennsylvania?

Mr. ALLEN. I am asking this question; yes.

Mr. HEINZ. My understanding of the law is that it is not illegal for up to two designated Senate employees to solicit funds if, and only if, they are not doing it in a Federal building.

Mr. ALLEN. Well, the present bill does not have anything to do with the Federal building, and the solicitation; that would still apply.

Mr. HEINZ. I say to my good friend from Alabama, if he will turn to page 60 of the report at the bottom of the page he will see that precisely what section 301 of the bill amends is the provision in title 18; namely, section 603, prohibiting anybody from soliciting funds in a Federal building, and that is clearly set forth here. Let me read section 603 as it now is and section 603 as we would amend it. It now reads:

> Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of moneys or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

How does section 301 of the bill change that?

The PRESIDING OFFICER. The 2 minutes of the Senator from Alabama have expired.

Mr. CANNON. I yield 2 additional minutes.

Mr. HEINZ. I will proceed on my own time.

It changes it as follows:

It strikes the word "whoever" and says, "Except as otherwise provided in subsection (b).

It then remains the same as I read just a moment ago.

It says:

> Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of moneys or other thing of value for any political purpose, shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.
>
> (b) Subsection (a)—

Which I have just read—

> shall no' apply to two assistants to a Senator of the United States, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or election, of any individual to be a Member of the Senate or to any other Federal office and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XLII of the Standing Rules of the United States Senate for each year during which he is designated as provided in this subsection.

So I say to the Senator the bill amends section 603, title 18, which is the prohibition against fundraising in Federal buildings.

Mr. ALLEN. That is not the intent of the committee, and I do not think even if it were that the amendment of the Senator reaches the issue because I believe all he is striking out with this amendment is to strike out the word "solicit." Is that correct?

Mr. HEINZ. That is exactly what the amendment does.

Mr. ALLEN. All right.

Mr. HEINZ. Excuse me.

Mr. ALLEN. Let me show where the Senator's amendment does not go far enough then. If what the Senator says is correct about disallowing solicitation in a Federal building, he is leaving here to receive in a Federal building, if that is true. There is no intent on the part of the committee, and I think the chairman will bear this out, to permit anybody on the staff to solicit in a Federal building. So if that is what the Senator is aiming at I think that could be very easily changed, if that is worrying the Senator.

Mr. HEINZ. I am delighted the Senator from Alabama feels that way. In fact, I offered an amendment that prohibited both soliciting and receiving earlier today. It struck virtually all of section 301, leaving only the receipt by mail provision. Unfortunately, we could not get a vote on it. There were not enough Senators here to get a second. It was opposed by the chairman of the committee, and it was defeated.

Mr. ALLEN. What is the point of the Senator's amendment? Is it to forbid solicitation in a Federal building? If so, I think the Senator could get unanimous consent for that. But if he strikes out the word "solicit" generally, I think he is going too far.

Mr. HEINZ. My amendment does not prohibit Senate employees from soliciting a contribution from their home or any other place except in a Federal building.

Mr. ALLEN. I certainly support that if that is what the Senator's amendment does. But it does not do that.

Mr. HEINZ. I have not heard, I say to my good friend from Alabama, anyone accuse me of that not being the purpose and the effect of the amendment.

We had a lengthy discussion on this earlier, and I think the Senator from Nevada would agree that is all this amendment does.

Mr. ALLEN. All the Senator is trying to do then is to forbid, to prevent what the Rules Committee did from bringing staff, the two staff people, one in the State and one in the city, from soliciting in a Federal building. Is that correct?

Mr. HEINZ. The Senator is entirely correct.

Mr. ALLEN. I think, I say to the chairman, that could very easily be accomplished but will not be accomplished the way the Senator generally strikes it out.

Mr. HEINZ. Will the Senator from Alabama explain to me why my amendment does not accomplish that?

Mr. ALLEN. Because it would forbid the solicitation outside the Federal building if the Senate knocks out the word. No one is asking that solicitation be permitted in a Federal building.

Mr. HEINZ. I do not quite understand why the Senator is saying that.

Mr. ALLEN. The Senator is knocking out the permission to solicit generally by one staff member.

Mr. HEINZ. The Senator is perplexing me, and I know he is acting in good faith, and I do not know why we are having a disagreement.

The amendment will only prohibit a Senate employee from soliciting in a Federal building.

The reason again is, if the Senator will turn to the report, page 60, he will see clearly that where I strike the word "solicit" is where we qualify with section 301 of the bill section 603 of title 18 of the United States Code. It is this qualification which would open up this gaping loophole in subsection (b). I only strike the word "solicit" from subsection (b). I do not amend in any way, shape, or form Senate Resolution 188.

So I do not think the Senator is correct.

Mr. ALLEN. Very well.

All the Senator seeks to do is forbid this one designated person from soliciting in a Federal building. Is that correct?

Mr. HEINZ. That is correct.

Mr. ALLEN. If that is the purpose of it, I think there would be no objection on my part to that.

Does the chairman feel the same way about it?

Mr. CANNON. I explained earlier the Senator went far beyond that in his original proposal, and I just said a few moments ago I do not think he does what he intends by striking the word "solicit" here because this applies to the whole rule that says you can designate two people on your office staff to do certain things, and one of those is solicit, and this is the part that the Senator would strike if he strikes the word "solicit" in the language.

Mr. ALLEN. He states that this provision is to take these designated circumstances out of the statute forbidding solicitation in a Federal building and that nowhere else is there a prohibition against solicitation by this one designated staff member or any staff member for that matter. That is the Senator's statement.

I wonder if the Senator will allow this amendment to be laid aside and let us see if it accomplishes what the Senator says he seeks to accomplish and then in that event I think there would be no reason why the amendment could not be agreed to.

Mr. HEINZ. Mr. President, this is a very strange situation. I think we all know exactly what the amendment does. I do not know how much more plainly it is possible to speak but if I have been in any way confusing, illogical, or deceptive, I wish the Senator from Alabama would point out why the amendment does not do what I have just said and explained it does.

I reserve the remainder of my time unless the Senator from Alabama——

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

Mr. HEINZ. I yield.

Mr. HATFIELD. I wonder if we could settle this quickly by asking the Senator from Pennsylvania to take his amendment down for a few minutes, check with the Parliamentarian, and ask the Parliamentarian to affirm so that the confusion will be eliminated and the Senator from Pennsylvania may call up his amendment again and act upon it. And if it is exactly as the Senator intends, I do not see why that amendment could not be accepted without any further problem.

It is just an offer of a solution. Frankly, I must say that I am confused as well. As I read the Senator's amendment I think it goes far beyond what the Senator explained it to be. I think the only way we can settle that is to have the Parliamentarian take a look at the Senator's amendment. Otherwise, I think the Senator is going to find a tabling motion on his amendment.

If the Senator does not want to clarify his amendment for the benefit of the managers of the bill, that is his choice.

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

Mr. HEINZ. I am very pleased to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I very much hope we can resolve this issue. I have been listening to the colloquy, and it seems to me that we are all reaching for the same result. I would very much hope that if there is any disagreement on the intent of the language itself, we might find some way to perfect or change it to accommodate those who are uncertain about its effect.

As I understand it, and the Senator from Pennsylvania can correct me if I am wrong, it is his intention to provide only against solicitation on Federal premises. Is that correct?

Mr. HEINZ. That is correct.

Mr. BAKER. I would ask the distinguished manager of the bill on our side if he could see how we might, then, modify the language, if that is necessary, to clarify the intention.

Mr. HATFIELD. There would be no objection to accepting that amendment on the part of the manager for the minority side, if that is what the amendment will do. But the question has been raised, and I think it must be satisfied, as to whether or not it goes beyond the explanation of the Senator from Pennsylvania.

I am only suggesting that, in order to remove that cloud, I think the Parliamentarian would be the best fit person to look at it and give us some kind of affirmation.

Mr. HEINZ. I would say that I would be prepared to make it right. I would be prepared to rewrite it, to have the amendment considered.

Mr. HATFIELD. I would suggest that the amendment be laid aside temporarily, and that other Senators then fall in line with their amendments.

Mr. BAKER. Mr. President, I think we are on the verge of working something out. I would, in a moment, like to suggest the absence of a quorum, if agreeable to the managers of the bill, but before that, I wonder if the Senator from Pennsylvania would yield to the Senator from Idaho.

Mr. HEINZ. I would be pleased to yield.

Mr. McCLURE. Mr. President, I think maybe the confusion arises because the amendment of the Senator from Pennsylvania strikes the word "solicit" from the prohibition, but that is not the place where the permission to solicit is granted. The authorization or permission to solicit is granted in a rule of the Senate, not in the statute which prohibits solicitation in a Federal building.

I think the Senator's amendment does exactly what he says it does; it removes that prohibition, but it carefully says that they cannot solicit in a Federal building. They can receive and distribute in a Federal building, but they cannot solicit; and the authority to solicit elsewhere is contained, not in this statute, but in a rule of the Senate.

Mr. HEINZ. The Senator has stated it very eloquently. His eloquence is almost as great as that of ROBERT CARLYLE BYRD, who regaled us a few moments ago with fantastic oratory.

Mr. BAKER. Mr. President, rather than take down the amendment at this time, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

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

Mr. HEINZ. I am pleased to yield.

Mr. BAKER. Mr. President, it appears to me that we once again are on the verge of working out any misunderstandings on this measure, but since there are other amendments that we might dispose of, could I propound the unanimous-consent request that the amendment of the distinguished Senator from Pennsylvania may be laid aside temporarily, and that we proceed to another amendment, with the understanding that upon the completion of the other amendment we will return to the consideration of the amendment of the Senator from Pennsylvania?

The PRESIDING OFFICER. Is the Senator making the unanimous-consent request?

Mr. BAKER. I do now propound that unanimous consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill is open to further amendment.

UP AMENDMENT NO. 717

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 717:

On page 42, line 2, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 42, line 3, insert a comma after "$1,000".

On page 42, line 16

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

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

The amendment is as follows:

On page 42, line 2, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 42, line 3, insert a comma after "$1,000".

On page 42, line 16, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 42, line 17, insert a comma after "$1,000."

On page 43, lines 1 and 2, strike out "or committee" and insert in lieu thereof "does not exceed $1,000, and with respect to such political committee of a political party".

On page 43, line 2, insert a comma after "$1,000".

On page 45, line 1, strike out "or" and insert in lieu thereof "does not exceed $1,000, and on behalf of any".

On page 45, line 2, insert a comma after "$1,000".

On page 45, lines 11 and 12, strike out "or committee" and insert in lieu thereof "does not exceed $1,000, and with respect to such political committee of a political party".

On page 45, line 12, insert a comma after "$1,000".

Mr. THURMOND. Mr. President, my amendment simply seeks to clarify the language which extends the $1,000 exclusion of certain residential, vendor and travel expenses for candidate related activity to political party related activity as well.

The language of the bill reads:

To the extent that the cumulative value of such activity by such individual on behalf of any candidate or political committee of a political party does not exceed $1,000 with respect to any election.

Use of the correlative conjunction "or," Mr. President, following the prepositional phrase "on the behalf of" serves to limit "any candidate" or "political committee of a political party."

Since it is stated that the cumulative value must not exceed $1,000 with respect to any election, I would interpret the use of the correlative conjunction after the prepositional phrase to include both candidate-related and political committees of political parties within the cumulative value. I do not believe this is the intent of the bill. I believe the relationship between "any candidate" and "political committees of a political party" is meant to be disjunctive rather than conjunctive.

My amendment would simply insure that the $1,000 ceiling would apply to candidates and another $1,000 ceiling would apply to committees.

The PRESIDING OFFICER. Will the Senator cease for a moment?

The Chair observes that the Senator's amendment pertains to figures which have already been amended, and would require unanimous consent to be in order. Does the Senator request unanimous consent that his amendment be considered at this point?

Mr. THURMOND. Mr. President, I ask unanimous consent that it be considered. The manager of the bill has agreed to accept the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. THURMOND. Therefore, the limitation would not attach to the individual, but to the candidate-related event or political committee of a political party.

Mr. President, I have talked with the manager of the bill, and he has agreed to accept this amendment.

Mr. CANNON. Mr. President, I have discussed that amendment with the distinguished Senator from South Carolina, and the amendment is acceptable. I yield back the remainder of my time.

Mr. THURMOND. Mr. President, 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 offered by the Senator from South Carolina.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Pennsylvania. Who yields time?

Does the Senator suggest the absence of a quorum?

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

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, without the time being charged to either side, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

(The following proceedings occurred earlier and are printed at this point in the RECORD by unanimous consent:)

Mr. BENTSEN. Will the Senator from North Carolina yield for a unanimous consent request?

Mr. HELMS. I yield.

AUTHORIZING ADDITIONAL APPROPRIATIONS FOR PROSECUTION OF CERTAIN WATER PROJECTS

Mr. BENTSEN. Mr. President, I ask unanimous consent to proceed to the immediate consideration of a bill I have introduced. I have already cleared this with the majority leader and with the minority leader. I have cleared it with the chairman of the committee, the Environment and Public Works Committee, and I have cleared it with Senator STAFFORD, Senator DOMENICI, and with all those Members involved.

What this involves is we have an appropriation authorization through 1978 to take care of these two projects. But the rivers and harbors bill is obviously locked up in conference on some other issues. The authorization is running out on these two projects, which means that the contractors will have to pull off the job in the next 2 weeks.

The projects are in California and Texas, and they come out of the committee on which I serve, the Environment and Public Works Committee.

It will cost the taxpayers substantially more money for them to have to put their crews back on those jobs.

It is my understanding that there is no objection to the bill from the members of the committee.

I send the bill to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I ask that the time the Senator has consumed not be charged to either side on the amendment of the Senator from North Carolina or against the bill, S. 926.

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

There being no objection, the Senate proceeded to consider the bill (S. 2001) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power, and other purposes, which was considered to have been read twice.

Mr. ROBERT C. BYRD. Will the Senator put a time limitation on the consideration of this bill?

Mr. BENTSEN. May I have another 3 minutes?

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

BRAZOS RIVER BASIN

Mr. BENTSEN. Mr. President, I am introducing legislation today to provide an urgently needed increase in the monetary authorization ceiling for the Brazos River Basin in Texas. The increase is necessary to allow construction to continue on two important projects—the Granger Dam and Lake and North Fork Dam and Lake.

Mr. President, a $60 million increase in the Brazos River Basin monetary authorization was included in the omnibus rivers and harbors bill which passed the Senate earlier this year. Unfortunately, that bill is now being delayed in the House due to extended consideration of the waterway user charge issue. It is now apparent that that legislation will not be disposed of before the August recess.

Unless an increase in the monetary authorization ceiling is granted, construction on the Granger Dam and Lake will be shut down as soon as next week and work on the North Fork and Dam and Lake will likely cease in mid-September. If immediate relief is not forthcoming, the contractors on these projects will have to lay off their work crews and costs of the final project can be expected to increase.

The bill also included an increase in the monetary authorization for the San Joaquin River Basin in California which is facing problems similar to those in the Brazos River Basin.

Mr. President, my bill would address these problems by providing an emergency increase of $7.5 million in the monetary authorization for the Brazos River Basin and a $6-million increase for the San Joaquin River Basin. This would permit the contractors to continue work under their present contracts, and allow the corps to let additional contracts that were scheduled to be awarded in October.

Mr. President, I urge my colleagues to give favorable consideration to these urgently needed increases.

Mr. President, I want to emphasize that the appropriation has already been authorized for 1978.

It is a matter of extension of the authorization. This would take care of the San Joaquin River Basin in California, which is facing the same problems as the Brazos River Basin is facing in Texas.

It is $7.5 million in monetary authorization for the Brazos River Basin, and $6 million for the San Joaquin River Basin. Those amounts and more are in the rivers and harbors bill. This is just a matter of allowing the continuation of the work and not putting the contractors off the job, letting the crews go, and then trying to reinstate those crews at a later date.

I know of no objection to the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2001) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to previous authorizations there is hereby authorized to be appropriated for the prosecution of the comprehensive plans of development of the river basins under the jurisdiction of the Secretary of the Army referred to in the first column below, which was authorized by the Act referred to in the second column below, an amount not to exceed that shown opposite such river basin in the third column below.

Basin: Brazos River Basin. Act of Congress: Sept. 3, 1954, FCA 1954, PL 780–83rd Cong. Amount: $7,500,000.

Basin: San Joaquin River Basin. Act of Congress: Dec. 22, 1944, FCA 1944, PL 534–78th Cong. Amount: $6,000,000.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent to add the senior Senator from Texas (Mr. TOWER) and the Senator from Alaska (Mr. GRAVEL) as cosponsors.

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

PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from North Carolina be permitted to call up his amendment at this time pending the resolving of the question on the amendment of the Senator from Pennsylvania.

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

The Senator from North Carolina is recognized.

AMENDMENT NO. 755

Mr. HELMS. I thank the Senator from Oregon.

Mr. President, I call up my amendment No. 755 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes amendment number 755.

Mr. HELMS. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 66, after line 24, insert the following:

"(9) Notwithstanding the provisions of this or any other Act, none of the dues, fees, or assessments paid by employees to any labor organization which is a party to a collective bargaining agreement requiring the payment of membership dues, fees, or assessments as a condition of employment, shall be used for registration or get-out-the-vote campaigns, for the establishment, administration, or solicitation of funds for a separate segregated fund as set forth in 2(C) above, or for any other expenditure in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for any political office.".

Mr. HELMS. Mr. President, Thomas Jefferson said:

To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is simple and tyrannical.

This quotation applies with even greater force to the political use of union dues, fees, or assessments which are obtained by compulsory employment contracts.

Mr. ROBERT C. BYRD. Mr. President, could we have order in the Senate while the Senator is addressing his amendment?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I hope the Chair will insist upon order.

The PRESIDING OFFICER. The Senate will please come to order. Members will clear the aisles and please take their seats.

Mr. ROBERT C. BYRD. Mr. President, I move that the Chair not let the Senator proceed until the Senate is in order.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the quotation of Thomas Jefferson to which I have just alluded applies, as I said, with even greater force to the political use of union dues or fees or assessments which are obtained by compulsory employment contracts. This amendment is very simple, Mr. President. It would prohibit the political use of union funds which were collected under a compulsory union contract.

In other words, if a worker is required to join a union in order to get a job or keep a job, then the union dues cannot be used for political purposes.

Such political uses as registration or get-out-the-vote campaigns, or any other expenditure in connection with any election to political office, would be proscribed under this amendment.

Mr. President, I do not suggest that this topic is new; it has been an ever increasing problem in our society. Numbers of law suits have been brought by individuals who object to the fact that their enforced tribute required for employment was used for social or political action contrary to their views.

In the case of *McNamara* v. *Johnston*, 522 F2 1157 (1975) C.A. 7, a majority of members of a UAW local in Chicago objected to expenditures of their dues and assessments for political campaigns of selected candidates and contributions to various social action organizations, such as the Students Nonviolent Coordinating Committee, Americans for Democratic Action, U.S. Committee for Democracy in Greece, and United World Federalists. The Court apparently was confused between voluntary contributions and those required as a condition of employment; and it denied the relief, but noted in passing the troublesome problem in this area. The predecessor statute—Corrupt Practices Act—was analyzed, but injunctive relief was denied because Congress had, in the interim, enacted the 1974 Campaign Act amendments granting "primary jurisdiction" to the Federal Election Commission.

A subsequent case, arising from the State of Michigan, again presented the question of the use of compulsory union membership dues for political purposes. In the case of *Abood* v. *Detroit Board of Education et al.*, 45 Law Week 4473 (May 24, 1977) the Supreme Court grappled with the problem of the use of such dues for purposes unrelated to collective bargaining. Justice Stewart, writing the majority opinion, noted that previous Supreme Court cases involving the union shop concept contained no evidence of union dues used to force ideological conformity or otherwise impair the free expression of employees; had such evidence been present, the Court indicates, a different problem is presented; where such evidence is contained, the issue is one of constitutional question of "utmost gravity". The Court said:

The fact that the appellants are compelled to make, rather than prohibited from making, contributions for political purposes works no less an infringement of their constitutional rights. For at the heart of the First Amendemnt is the notion that an individual should be free to believe as he will, and that in a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by the State. And the freedom of belief is no incidental or secondary aspect of the First Amendment's protections:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

Mr. GRIFFIN. Will the Senator from North Carolina yield?

Mr. HELMS. I am delighted to yield.

Mr. GRIFFIN. I want to indicate my strong support for his amendment. Really, the use of union dues which are collected under compulsory union contracts for politics is more a problem in

my part of the country. Obviously, in right-to-work States—where workers cannot be forced to pay dues to work—and in areas where fewer workers are organized this amendment would have little or no effect. But in my State and in other Northern States, this amendment addresses a serious civil rights problem.

Incidentally, I find it very interesting that so many in and out of the Senate who regard themselves as liberals and civil rights advocates have no concern about the fundamental civil right that is involved here. The right of citizenship—the right to vote and support the candidates and the political party of one's choice—is about as important as any right can be.

When workers vote in a representation election to be represented by a labor union, under the provisions of the National Labor Relations Act, at least, they designate the union to represent them for the purpose of bargaining with respect to wages, hours, and working conditions.

Mr. HELMS. Exactly.

Mr. GRIFFIN. That is the only purpose for which a union is authorized to represent the employees. Yet it is widely known and mostly ignored that many unions use these dues collected for purposes other than collective bargaining, including political purposes. This is wrong and especially indefensible in the case of workers who are required to pay union dues in order to work. I can say that many union members do not like it.

I am not running for reelection, but I have run twice in a State which is known as one of the strongest labor States. Many people have wondered how a Republican could beat G. Mennen Williams, as I did, in 1966 in the State of Michigan; or how a Republican could defeat a very popular attorney general, running on the other ticket, in 1972. I can say that this civil rights issue was one of the most important issues in my campaigns. It was a subject on which I related to many individual union members.

Many union members resent having their union dues used for political monkey business and for other activities not related to union business. They expect the union to do what the statute says it is supposed to do—and not try to play political party. The average union members wants to vote as he pleases; he wants to support the candidates of his—not the union's leaders—choice. He does not want his political decisions to be dictated to him; he does not want the dues that are extracted from him to be used for political purposes.

This is a good amendment. The real liberals in this body ought to support it. We shall see what happens when they come in and vote. I thank the Senator from North Carolina.

Mr. HELMS. I thank the Senator from Michigan for his comments. He is exactly right. I have much the same experience in my State, although, as he indicated, the incidence of union membership is far less in North Carolina than it is in Michigan. I thank him again for his comment.

The PRESIDING OFFICER. Will the Senator indicate to the Chair whether this is the amendment on which he desired 1 hour of debate?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HELMS. I thank the Chair.

Mr. President, I believe we have enough Senators on the floor for me to obtain the yeas and nays, and I do so.

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

The yeas and nays were ordered.

Mr. HELMS. To continue with the Court's opinion:

> These principles prohibit a State from compelling any individual to affirm his belief in God, *Torcaso* v. *Watkins*, 367 U.S. 488, or to associate with a political party, *Elrod* v. *Burns*, supra; see id., at 363-364, n. 17, as a condition of retaining public employment. They are no less applicable to the case at bar, and they thus prohibit the appellees from requiring any of the appellants to contribute to the support of an ideological cause he may oppose as a condition of holding a job as a public school teacher.
>
> We do not hold that a union cannot constitutionally spend funds for the expression of political views, on behalf of political candidates, or towards the advancement of other ideological causes not germane to its duties as collective bargaining representative. Rather, the Constitution requires only that such expenditures be financed from charges, dues, or assessments paid by employees who do not object to advancing those ideas and who are not coerced into doing so against their will by the threat of loss of governmental employment.

The Court concludes that such constitutional infringement cannot be allowed as a violation of first and 14th amendment rights. This has raised the difficult problem of "drawing lines" in a judicial decision.

In a concurring opinion by Justice Powell, the Chief Justice and Justice Blackmun said:

> The Court today holds that a State cannot constitutionally compel public employees to contribute to union political activities which they oppose.
>
> On this basis the Court concludes that "the general allegations in the complaint, if proven, establish a cause of action under the First and Fourteenth Amendments." With this much of the Court's opinion I agree, and I therefore join the Court's judgment remanding this case for further proceedings.
>
> But the Court's holding and judgment are but a small part of today's decision. Working from the novel premise that public employers are under no greater constitutional constraints than their counterparts in the private sector, the Court apparently rules that public employees can be compelled by the State to pay full union dues to a union with which they disagree, subject only to a possible rebate or deduction if they are willing to step forward, declare their opposition to the union, and initiate a proceeding to establish that some portion of their dues has been spent on "ideological activities unrelated to collective bargaining." Such a sweeping limitation of First Amendment rights by the Court is not only unnecessary on this record; it is in my view unsupported by either precedent or reason.

And they further quoted Justice Douglas's views that—

> Use of union dues for political purposes subordinates the individual's First Amendment rights to the views of the majority.

In *Elrod* v. *Burns*, 417 U.S. 347, 362, the Supreme Court held that a "significant impairment of first amendment rights must survive exacting scrutiny" and in *Buckley* v. *Valeo*, 427 U.S. 326, 363, they said, "Care must be taken not to confuse the interests of partisan organizations with governmental interests."

The hazards of remanding these cases to U.S. district courts throughout the Nation to fashion various and sundry remedies is, in my opinion, the most wasteful, inefficient, and expensive way to protect the constitutional rights of American workers. It is the legislative function that should set parameters that will prevent these constitutional invasions.

The words of my amendment use familiar phrases that are well understood by people in the political fields. They have been subject to court decision, administrative interpretation, and are part of the Federal Election Act where affected persons can get the advantage of advisory opinions and conciliation provisions of the act (2 U.S.C. 437f and 2 U.S.C. 437g (a) (5) (A)).

In conclusion, Mr. President, the Congress should not avoid facing up to its duty to protect the constitutional rights of those Americans who are forced to join a union against their will in order to get a job, or keep it.

Mr. President, that is the purpose of this amendment and I urge its adoption.

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

Mr. CLARK. I wonder if the Senator would yield for a question?

Mr. HELMS. Yes, of course.

Mr. CLARK. The Senator has made a strong case for saying that no individuals should have their funds, funds they have contributed, used for a purpose other than one in which they have directed the use.

They have had a say in the use. Indeed, they have determined for themselves how that money should be used in political communications or in get out the vote activities, or other things of that kind. I think that is the basis of the Senator's comments. Perhaps he could correct me.

Mr. HELMS. I am saying that compulsory union dues should not be used for that purpose, period because political activity is not the purpose of union dues.

Mr. CLARK. I understand the Senator's position more clearly.

Let me cite an example that is not covered by the Senator's amendment.

If I am an elderly person, or a person of any age, and I decide that for my own welfare and my own good I want to invest in a large corporation, I want to be a stockholder in a large corporation because inflation is eating up my income and I feel by investing it in stocks in a major corporation that I will hedge against inflation, if I make that investment in a corporation, the corporation, of course, can use the money for political purposes.

Mr. HELMS. Yes, but the Senator is not——

Mr. CLARK. If I might just finish.

If I make that investment in that cor-

poration, that corporation can take that same money and spend it for candidates I am opposed to, then use it in internal communications that argue against or for candidates to which I am opposed.

What choice do I have as a stockholder in that company?

Mr. HELMS. The Senator would not be required to buy or keep any stock in the corporation. My amendment covers political use of union dues only when the dues are compulsory.

Mr. CLARK. But the money is my money that is being used against my will for another purpose. I would have to sell my stock to prevent that from happenng, perhaps at great financial loss.

Mr. HELMS. I am sorry, but the Senator's example is not analogous at all, and I think he knows it.

Mr. CLARK. I am not talking about analogies. I am talking about the principle of using my money as an investor for purposes other than I want it used for.

That is my money. Why should I not determine it, if the Senator's principle is correct?

Mr. HELMS. Is the Senator talking about the use of corporate funds?

Mr. CLARK. For political purposes against my will as an investor.

Mr. HELMS. I do not know about the Senator's State, but in North Carolina one could end up in the penitentiary if he uses corporate funds for political purposes.

Mr. CLARK. On the contrary——

Mr. HELMS. He can propose his own amendment to take care of any problem he has with corporations.

Mr. CLARK. On the contrary. The law does not allow both union dues and corporate funds to be used for the purposes of communicating with their own members, for purposes of getting out the vote, for all the purposes, indeed, the Senator has outlined in his amendment.

But it applies in this case only to labor unions that are under union shop conditions. It does not apply to corporations and their internal communications.

It seems to me that what is sauce for the goose is sauce for the gander.

Mr. HELMS. I say to my good friend from Iowa that if he will put in an identical amendment relating to corporations, I will be glad to consider it.

Mr. CLARK. I think it is quite clear from Buckley against Valeo and other cases that we cannot restrict an organization's internal communications. That would be a violation of the first amendment.

Mr. HELMS. If we compel union membership as a requirement for getting a job or keeping it? I do not agree with the Senator at all.

Mr. CLARK. I am not talking about membership, because an investor is not a member, he is an investor.

Mr. HELMS. I am talking about unions, and compulsory membership in order to get a job or keep a job.

Mr. CLARK. I know, but it seems to me a comparable case. They are taking my money as an investor in a major corporation, spending it against my will to defeat or elect candidates through internal communications and through get-out-the-vote, or any other legal activities, against my will.

It seems to me if one is going to live by that principle, it should apply equally, whether one is an investor in a corporation or a member of a labor union.

My point simply is, however, that we cannot restrict that activity. We cannot restrict a group under Buckley against Valeo, or under the Constitution, in my judgment, from expressing itself on a candidate, whether they are for or against a candidate. We cannot limit an individual's right to spend money, to express him or herself on an issue for cr against a candidate.

Mr. HELMS. We are not talking about individuals, as the Senator knows. We are talking about compulsory union membership, and the political use of dues paid by the working people against their wishes in countless cases. The amendment simply provides that if a worker is required to join a union in order to get a job or keep a job, then union funds should not be used for political purposes.

Senator GRIFFIN has just finished giving a recitation of the feelings of what must be thousands of union members in the State of Michigan who resent the use of their money when they are required to join a union in order to get a job or keep it.

I say again that if the Senator has an amendment which will parallel the use of corporate funds more precisely to his liking, I will be glad to consider it.

Needless to say, organized labor is opposed to this amendment—or, more aptly stated, the union bosses of this country are opposed to it. Just outside the Senate Chamber, at this moment, labor union lobbyists are standing ready, poised, to buttonhole the Senators and say, "Vote down the Helms amendment."

We are going to have a vote on it, Mr. President. We are going to separate the sheep from the goats on this question. We are going to find out who stands where on this simple proposition.

No amount of sophistry will erase the plain truth about the political power exercised by the union bosses in this country.

I note that the distinguished Press Gallery is empty. Many of them are members of unions. I doubt that there will be one syllable about this amendment in tomorrow morning's Washington Post or New York Times, because so many of the reporters who report the news to the American people are members of a union. But we are going to have a roll-call vote, and we will see who stands where, Mr. President.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I yield myself 5 minutes.

Mr. President, the proposed amendment to the Federal Election Campaign Act of 1971 would severely limit the use of union funds for political purposes.

At the outset, it is extremely important that we all understand what type of political activity labor organizations are permitted to engage in. The relevant statutory provisions are set forth at 2 U.S.C. 441b, and I ask unanimous consent that this section be printed in its entirety at this point in my remarks.

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

§ 441b. Contributions or expenditures by national banks, corporations or labor organizations

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b)(1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include—

(A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject;

(B) non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.

(B) for any person soliciting an employee for a contribution to such a fund to fail

to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

Mr. CANNON. Mr. President, section 441b, which is presently part of the Federal Election Campaign Act, essentially prohibits labor unions and corporations from making political contributions or expenditures in connection with a Federal election. This prohibition had its genesis in the Tillman Act of 1907 which prohibited national banks and corporations chartered by Congress from making political contributions in any election, and prohibited all corporations from making political contributions in connection with Federal elections. This proscription was extended in 1943 and 1947 to cover labor unions and prohibited both contributions and expenditures in connection with Federal elections.

The expressed purpose of this legislation was to limit corporate and labor union influence over elections through direct financial contributions. Subsequent Supreme Court interpretations which defined and limited the scope of section 441b led, in turn, to its amendment in 1971 as part of the Federal Election Campaign Act in an attempt to codify those areas of permissible political activity which the Supreme Court, in its decisions, had indicated would be unconstitutional for Congress to proscribe. These areas of permissible political activity were further clarified by Congress in the Federal Election Campaign Act Amendments of 1976, and are the specific areas which my colleague has proposed be effectively repealed.

First of all, section 441b specifically permits labor organizations to use union funds to communicate with their members and their families on any subject. It correspondingly permits corporations to use corporate treasury funds to communicate with their stockholders and executive or administrative personnel on any subject. Any proposal to extend the basic prohibitions of 441b to these internal communications, whether the communications be of a general political educational nature, or specific communications informing members or stockholders of the views of the union or corporation with respect to particular candidates and advocating their election or defeat, would clearly be unconstitutional. The United States Supreme Court, in United States against CIO, 335 U.S. 106 (1948), in considering the broad prohibitions of section 441b, which were then contained in the predecessor to this section, specifically concluded that the statute was not intended to prohibit a union from distributing to its members a union newspaper which urged members to vote for a certain congressional candidate. The Court, after reviewing the legislative history of the section, reached the following conclusion:

From what we have previously noted, it is clear that Congress was keenly aware of the constitutional limitations on legislation and of the danger of the invalidation by the courts of any enactment that threatened abridgement of the freedoms of the first amendment.

It did not want to pass any legislation that would threaten interference with the privileges of speech or press or that would undertake to supersede the Constitution. The obligation rests also on this court in construing Congressional enactments, to take care to interpret them so as to avoid the danger of unconstitutionality.

If section 313 (441b) were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodicals advising their members, stockholders or customers of danger or advantage to their interest from the adoption of measures or the election to office of men espousing such measures, the gravest doubt would arise in our minds as to its constitutionality." (335 U.S. at 121.)

In response to arguments that it is unfair to permit the expenditure of funds for internal communications with which a union member or stockholder may disagree, the Supreme Court stated the following:

Members of unions paying dues and stockholders of corporations know of the practice of their respective organizations in regularly publishing periodicals . . . and are not . . . unwilling participants in such normal, organizational activities, including the advocacy thereby of governmental policies affecting their interests, and the support thereby of candidates thought to be favorable to their interests. (335 U.S. 123.)

In United States against United Auto Workers, 352 U.S. 567 (1957), the Supreme Court reinstated the indictment of a labor union under the predecessor to section 441b, which charged that the union had used dues funds to sponsor commercial television broadcasts designed to influence the general electorate to select certain candidates for Congress. In this case, the Court referred to the constitutionally protected areas of communications with one's members and at 352 U.S. 589, stated that:

Unlike the union-sponsored political broadcast alleged in this case, the communication for which the defendants were indicted in CIO, was neither directed nor delivered to the public at large. The organization merely distributed its house organ to its own people.

The Court then went on to assert that the purpose of the general prohibition in the present section 441b was to curb ". . . the use of corporation or union funds to influence the public at large to vote for a particular candidate or a particular party."

The specific provisions in section 441b sanctioning internal communications, of a political nature or otherwise, as well as the further exception permitting nonpartisan registration and get-out-the-vote campaigns directed at union members or corporate stockholders and executive or administrative employees—which in itself is a form of communication—are both statutory codifications of that constitutional distinction which the Supreme Court quite clearly appears to have drawn between the expenditure of corporate or union funds to influence the general public and those directed to influence members, stockholders, and executive or administrative personnel. Consequently, I urge the Senate to reject this amendment which would have the effect of proscribing these communication and nonpartisan registration activities.

The final area of permissible political activity in section 441b which has been proposed be repealed is the use of union and corporate treasury funds to pay the costs of establishing and administering separate segregated funds, as well as the cost of soliciting voluntary contributions to those separate segregated funds from union members or corporate stockholders and executive or administrative employees. Those voluntary contributions can then be used to make political contributions or expenditures, subject, of course, to the limitations and reporting requirements of the Federal Election Campaign Act.

This statutory exemption originated as an amendment proposed by Representative HANSEN in the House of Representatives as part of the Federal Election Campaign Act of 1971. At that time, Representative HANSEN indicated that the provision was intended to codify prior case law and to clarify the meaning of the prohibition against corporate and union political contributions—117 CONGRESSIONAL RECORD 43379 (1971). Reference to the 1947 Senate floor debate where the 441b prohibition was permanently extended to unions indicates that the Congress did not intend to prohibit political funds or political action committees which were organized by a union and contained voluntary contributions from union members. For example, Senator Taft, in discussing the meaning of the proposed prohibition against contributions from corporations and labor unions, stated:

> If the labor people should desire to set up a political organization and obtain direct contributions for it, there would be nothing unlawful in that. (93 *Congressional Record* 6439 (1947).

Shortly after Representative HANSEN's amendment was enacted as part of Public Law 92-225, the U.S. Supreme Court in *Pipefitter* v. *U.S.*, 407 U.S. 385—1972—specifically held that the 441b prohibition with respect to political activity did not apply to union contributions and expenditures from political funds financed by the voluntary donations of members. The Supreme Court referred as follows to the concern of the Congress in 1947 that a prohibition of such corporate or union PAC's might raise constitutional questions involving the infringement of first amendment freedoms:

> Senator Taft's view that a union cannot violate the law by spending political funds volunteered by its members was consistent with the legislative history of the War Labor Disputes Act and an express interpretation given to that act by the Attorney General in 1944. His views also reflected concern that a broader application of section 610 (presently 441b) might raise constitutional questions of invasion of first amendment freedoms, and he wished particularly to reassure colleagues who had reservations on that score, and whose votes were necessary to override a predictable presidential veto, (see 93 *Congressional Record* 7485) of the Labor-Management Relations Act. We conclude, accordingly, that his view of the limited reach of section 610, entitled in any event to great weight, is in this instance controlling . . . We therefore hold that section 610 does not apply to union contributions and expenditures from political funds financed in some sense by the voluntary donations of employees. (407 U.S. at 409)

Thus, the Supreme Court and the Congress have determined that it is improper for corporations and labor organizations to make direct contributions with treasury or union funds to Federal candidates, but that they can establish, administer and solicit funds internally to separate, segregated funds or political action committees as long as those contributions to the funds are voluntary. The corporation or the labor union is then permitted to direct, by maintaining control over the separate, segregated funds, what political cause or candidate the funds or voluntary contributions may be given to or expended on behalf of.

Therefore, the establishment of a political action committee which is registered with the Federal Election Commission and to which only voluntary contributions are made was not the type of activity which Congress intended to prohibit when it banned the direct contribution or expenditure of corporate or union funds in Federal elections. Union or corporate funds are merely being utilized indirectly, and in light of the Supreme Court decisions, I would be concerned that legislation prohibiting the use of treasury funds to establish corporate or union PAC's might be found to be an unconstitutional infringement, as many of the activities involved in establishing, administering and soliciting funds are, in themselves, a form of internal communication.

Consequently, I would oppose this amendment which would have the effect of prohibiting the use of union funds to establish, administer or solicit voluntary funds to a separate, segregated fund.

Mr. President, we debated this matter at some length earlier when we considered for what purposes the union dues and the corporate funds could be used. We made it clear that they could be used for the purpose of registration drives, of get-out-the-vote drives and for communications to members. I am sorry to see my colleagues support a proposal that would try to curtail these activities on the part of either corporations or unions. I think it is a proper activity on their part and should be permitted to be carried out.

When the Senator has used up the remainder of his time, I intend to yield my time back and to move to table the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. With all due respect to my good friend from Nevada, I think he has proved the point with the speech he has just read. I believe I saw his able assistant, Mr. Hall, who is sitting right beside him, and who has been handing him the pages of his speech, one by one, after editing them—I believe I saw Mr. Hall conferring with Mr. Larry Gold, who is counsel for the AFL-CIO just outside the Senate Chamber, who is said to be a competent speech writer.

Mr. President, I am willing, if the distinguished Senator is, to yield back the remainder of my time.

Mr. CLARK. Mr. President, I would like to ask the Senator from Nevada if he would yield a few minutes.

Mr. CANNON. Yes. I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. CLARK. Mr. President, the issue, I think, is really twofold: Is it constitutional, is it legal, to restrict the rights of a group, however they may be constituted, however they may be formed, from their right of free speech under the first amendment? I think the cases that have been cited by the distinguished Senator from Nevada, several other cases, at least three clear Supreme Court cases, indicate, including Buckley against Valeo, that you cannot restrict that right.

If that case was clear on any one point, it was certainly clear on that point. Mr. President, you cannot tell an organization or an individual they cannot speak or spend their money, spend money to communicate with their own members, on behalf of or against a candidate or an issue, and that is exactly what this amendment does. It says if you are organized under certain conditions of employment, then you may not have the right to spend money for that purpose.

As I have indicated earlier, what this would mean is that if a group that was organized under this condition, in other words, if in a State that does not have a right-to-work law, the union representatives and the corporation decide they want a union, if they freely negotiate through the collective bargaining process to have a union shop, and a union shop exists, under the Senator's amendment even if all the members of that labor union wished to spend their money in support of a particular issue or candidate or against a candidate, even if all of them did, they would not have the right legally to spend any of that money from their dues; even if they all favored that issue or that principle or that candidate or were opposed to that candidate, they would not have the right under this amendment to even express themselves.

Clearly this violates their constitutional right to organize, to spend their money, to express themselves under the first amendment.

On the other hand, if one were a stockholder in a corporation, all of the stockholders in that corporation could be opposed to the way in which the corporation itself decides to spend that money, and yet there would not be anything that could be done. The corporation will make that decision on how the money is going to be spent, whether it is going to be spent to defeat or to support certain candidates, to communicate with their members. Yet the individual stockholder would have absolutely no recourse—in fact, if they were all opposed to that, there could be nothing they could do.

I do not think that is either fair or constitutional, and I hope the Members will support the tabling motion.

Mr. KENNEDY. Mr. President, will the Senator yield 3 minutes?

Mr. CANNON. Yes. I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. I want to identify myself with the remarks of the Senator from Nevada and the Senator from Iowa.

Quite clearly, this is a one-sided amendment, Mr. President. It is clearly directed against the working people of this country. There is no suggestion in the amendment that its provisions would also apply against corporations. It applies only to unions and labor organizations.

So we ought to understand exactly what we are dealing with in this particular amendment. It is very clear that it is directed against working people and against the trade union movement.

Second, Mr. President, there is a right of free assembly and free association under the First Amendment. That has been a major basis of union activity since the earliest days of labor organizations. That right has been protected as a constitutional right by the Supreme Court in a long line of decisions going back over many years.

Mr. President, there are a variety of means by which a minority of members of the trade union movement may opt out of having their dues used for purposes to which they object. There are far less burdensome ways of protecting the rights of individuals not to be coerced into supporting activities they oppose. For example, an individual member could be permitted a refund of the portion of his dues attributable to such activities. With obvious alternatives like these available, there is no justification in a blanket prohibition of funding such important activities.

So, Mr. President, I hope the amendment of the Senator from North Carolina will be defeated. I think we ought to understand the direction and purpose of this amendment. It is directed against the working people of this country and, for that reason, I oppose it.

Mr. HELMS. Mr. President, my friend from Massachusetts has been quite candid and a little bit extravagant in describing this amendment as against "the working people," a cliche dragged into the political arena so readily. So I will be equally candid and say that what he has said is plain nonsense. It is the working people who are forced to join a union against their will in order to get a job—these working people support this amendment.

The PRESIDING OFFICER. All time of the Senator from North Carolina has expired.

Mr. CANNON. Mr. President, I yield back the remainder of my time. I move to table the amendment of the Senator from North Carolina, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from North Carolina. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from Mississippi (Mr. STENNIS), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 67, nays 25, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—67

Allen	Glenn	Morgan
Anderson	Gravel	Moynihan
Bayh	Hart	Muskie
Bentsen	Haskell	Nelson
Biden	Hathaway	Nunn
Brooke	Heinz	Packwood
Bumpers	Hollings	Pell
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Riegle
Case	Jackson	Sarbanes
Chafee	Javits	Sasser
Chiles	Johnston	Schweiker
Church	Kennedy	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Danforth	Mathias	Talmadge
DeConcini	Matsunaga	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky
Eastland	Melcher	
Ford	Metzenbaum	

NAYS—25

Baker	Griffin	Pearson
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Scott
Curtis	Hayakawa	Thurmond
Dole	Helms	Tower
Domenici	Laxalt	Wallop
Garn	Lugar	Young
	McClure	

NOT VOTING—8

Abourezk	Metcalf	Sparkman
Goldwater	Percy	Stennis
McClellan	Randolph	

So, the motion to lay Mr. HELM's amendment on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 716

The PRESIDING OFFICER (Mr. CLARK). The question recurs on agreeing to the amendment of the Senator from Pennsylvania (Mr. HEINZ).

Mr. HEINZ. Mr. President, I have a modification of my amendment which I send to the desk as a substitute for the original amendment.

The PRESIDING OFFICER. The Chair will advise the Senator from Pennsylvania that unanimous consent is required to modify his amendment.

Mr. HEINZ. Mr. President, I ask unanimous consent that my amendment may be so modified.

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

The Chair would also remind the Senator from Pennsylvania that 1 minute of his time remains.

Mr. HEINZ. Mr. President, I shall necessarily be brief.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 69, line 24, insert after "apply to":

"the receipt of any contribution of moneys or other thing of value for any political purpose by"

On page 70, line 72, before the period insert the following:

", but the provisions of subsection (a) prohibiting the solicitation in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort or arsenal of any contribution of moneys or other thing of value for any political purpose" shall apply to such assistants

Mr. HEINZ. Mr. President, I ask unanimous consent that the name of the Senator from Alabama (Mr. ALLEN) be added as a cosponsor of the amendment as modified.

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

Mr. HEINZ. And I would like to express my appreciation to the Senator from Alabama for his assistance in perfecting this amendment.

Mr. President, I understand that the managers of the bill are prepared to accept this amendment. If they are so prepared, I would ask unanimous consent to vitiate the order previously entered for the yeas and nays.

The PRESIDING OFFICER. Is the Senator making such unanimous consent request?

Mr. HEINZ. Well, I would like to ask whether the managers of the bill will accept the amendment.

Mr. CANNON. Will the Senator withdraw the yeas and nays first?

Mr. HEINZ. I reserve the remainder of my time. I cannot hear the Senator.

Mr. CANNON. Mr. President, I have discussed this amendment with the Senator from Pennsylvania, and I believe it now does what he was seeking to do originally. I did not believe the original amendment accomplished the purpose, but I am willing to accept the amendment in this form.

Mr. HEINZ. Is the amendment as modified also acceptable to the minority?

Mr. HATFIELD. Mr. President, the amendment as modified is also acceptable to the minority manager, and I commend the Senator upon it.

Mr. HEINZ. Then, Mr. President, I ask unanimous consent to vitiate the order previously entered for the yeas and nays.

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

Mr. ALLEN. Mr. President, will the manager of the bill yield me 1 minute?

Mr. CANNON. I yield the Senator 1 minute.

Mr. ALLEN. I commend the Senator from Pennsylvania on his amendment. I think all the members of the Rules Committee had this same thought in mind. It might be the language was not

as consistent as it will be with this amendment. I think the purpose of the amendment is very worthy indeed. I commend this distinguished Senator for offering the amendment, and I appreciate his willingness to cooperate to get the amendment in acceptable form to all Senators.

Mr. BAKER. Mr. President, will the Senator from Nevada yield me half a minute?

Mr. CANNON. I yield.

Mr. BAKER. I commend the distinguished managers of the bill for their willingness to accommodate this amendment and to accept it. I commend the Senator from Alabama, as well. I frankly think the amendment in its original form accomplished the purpose, but I think any doubt has now been removed, and I am glad that the managers have accepted it.

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

Mr. HEINZ. Mr. President, I think I have 15 seconds left, and I want to thank the Senator from Nevada and the Senator from Oregon for their cooperation and their excellent efforts to perfect this amendment. I am very appreciative of their acceptance of it as well.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 576 (AS MODIFIED)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment numbered 576, as modified:

On page 66, after line 24, add the following:

"(9) Notwithstanding any regulation or other law, no corporation, labor organization, membership organization, cooperative, political committee, or corporation without capital stock shall be authorized to use the reduced postal rates, available to qualified nonprofit organizations under section 3626 of title 39 of the United States Code with respect to any mailing made in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office. Use of such reduced rate postage for such prohibited mail shall result in having such mail charged at first-class rate, and shall be a violation of this Act.".

Mr. GRIFFIN. Mr. President, this amendment is directed at a public financing arrangement already in effect—one which many Senators and most taxpayers do not realize exists. It is a public financing arrangement that substantially favors candidates supported by some labor organizations, and works against candidates who are opposed by labor organizations.

I think it ought to be of some interest—and I am glad that at least one of the former Presidential candidates, the Senator from Indiana (Mr. BAYH), is on the floor—to call attention to the fact that this special subsidy enjoyed by labor organizations with respect to political mailings is available not only in the general elections, when it hurts Republicans, but also in the primaries when it hurts Democrats.

I have a letter from a union member in my State which came to my attention. I am not going to give his name because he might have some problems if I were to disclose it. But any Senator who wants to read it is free to take a look at it. It is addressed to me.

Dear Senator: Please check the enclosed material.

I wish the Senator from Indiana would not leave.

I believe the use of union dues money for political purposes to be illegal. This material is on UAW stationary and a UAW envelope and paid for by? If this does not violate the letter of the law, it must violate the spirit of the law.

Thank you.

It is signed by the union member.

With his letter he enclosed another letter, an election brochure promoting Jimmy Carter, sent out by the UAW from Detroit on May 10, 1976, addressed to "All UAW Active and Retired Members in region 1–C." That letter reads in part as follows:

Greetings. You can participate directly in selecting the next President of the United States. Your vote in Michigan's primary election on Tuesday, May 18, will help determine what kind of America we live in for the next 4 years.

This is a difficult decision and one we have given a great deal of time and thought. We'd like you to be aware of the position taken by many UAW leaders, including all six Regional Directors in Michigan. Very simply, we personally believe Jimmy Carter should be America's next President.

The letter then refers to an enclosed very interesting brochure promoting Jimmy Carter.

Let me make the point that ought to be of particular interest: This political material sent out under a special postage rate which is available to nonprofit religious, scientific, educational, and philanthropic organizations as well as labor organizations.

One would think, and I think most Americans would believe that a special 2-cent rate, which is available for mailings sent out by such organizations, would be used only for nonpolitical purposes.

However, it may be a surprise to some that, under existing postal regulations, such is not the case. Labor organizations are now permitted—and were permitted during the last campaign—to mail out, at the 2-cent rate, purely political propaganda, advocating the election or defeat of candidates.

Now, what did Mr. BAYH's committee have to pay for mailings in Michigan? Or Mr. UDALL's committee—or Mr. JACKSON's committee—for mailings sent out during the Michigan primary? The answer is that their committees did not enjoy the 2-cent rate used by the UAW. They had to pay the regular bulk third-class rate which is 7.9 cents, or roughly 8 cents, for each piece of mail.

As we know, Mr. Carter won that primary election in Michigan.

Not only were UAW union member contributions used to support Mr. Carter, but the taxpayers subsidized union mailings for Carter to the extent of approximately 6 cents apiece. I do not think that is right. Let me go on and say that business organizations, chambers of commerce, et cetera, do not get a 2-cent mailing rate for their political mailings. Of course, they must be the regular 8-cent bulk rate.

I think it is especially interesting to take note of the fact that this 2-cent frank in effect for union political mailings at a time when Members of Congress, most appropriately, have tightened down on their own use of the frank. Of course, it was always, and appropriately so, improper for a Member of Congress to mail out under the frank purely political mailings. He cannot, in his newsletter, urge support in elections or advocate the defeat or any candidate. If he were to do that, obviously, the mailing would not be eligible for the frank.

Not only that, but we have, and most appropriately, prohibited ourselves from sending out mass mailings, even though they are not political, for a period of 60 days prior to an election. We realize that even mass mailings that do not ask for votes have a political effect.

My amendment would strike down this special mailing privilege as it applies to labor organizations and any other groups for political mailings.

It should be noted that, under recent revisions of the Postal Service regulations, the special 2-cent frank has been extended to some other interesting organizations—including Common Cause—which has been very critical of Members of Congress for use of the frank.

Mr. BAYH. Will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. BAYH. I appreciate the fact that the Senator associated the junior Senator from Indiana——

Mr. GRIFFIN. I just wanted to be sure that he knew some of the things that went on during the campaign.

Mr. BAYH. The Senator from Indiana is painfully aware of some of the things. Just so the record will be straight, I think if we look carefully we will find that the Senator from Indiana did not take advantage of this particular rate which existed in Michigan. By that time his rather futile campaign had been thrust into the middle of the Atlantic Ocean someplace, and to my knowledge he would not have benefited if he tried to use this particular regulation.

Could I just ask the Senator from Michigan—is this the same regulation that makes it possible for me to get all those brochures from the Right to Work Committee?

Mr. GRIFFIN. That is the next point I was going to make. I understand that Postal Service has also expanded the 2

cent frank to benefit the Right to Work Committee and to Ralph Nader's organization, among others. I do not think that such organizations should be subsidized to the extent of a 2 cent rate for political mailings—while everybody else has to pay at least 8 cents postage to mail out political literature.

My amendment would correct this inequity. I cannot imagine what the arguments are against it, but we shall listen.

Do you know what the committee did when we brought this matter up at the stage of our deliberations? Instead of doing away with this special rate, the committee extended use of the 2 cent frank to the National Republican Committee and the National Democratic Committee. So if you look in the bill, that is what is there. The committee not only did not cut back the privilege, it was expanded to the National Republican Committee and the National Democratic Committee.

I think the American people would be furious if they understood and knew that that was going on. I urge the adoption of my amendment.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 15 minutes remaining on the amendment. The Senator from Michigan has 4 minutes.

Mr. CANNON. Mr. President, I want briefly to address the matter of reduced postage rates for lobbying, legislative or political mailings and emphasize that this is by no means a privilege extended solely to labor unions under existing law and regulations.

S. 926 would extend to State and national political party committees the same postage rates as a "qualified nonprofit organization," as defined in 39 U.S.C. 452(d), so long as such an organization is entitled to use these rates for communications relating to any political or legislative subject. Under existing law and present Postal Service regulations—parts 132 and 134, eight categories of nonprofit organizations—religious, educational, scientific, philanthropic, agricultural, labor, veterans and fraternal—are entitled to reduced second class and reduced third class bulk mail rates, even though the organization may be engaged in lobbying, legislative or political related activities, as long as it only mails its own matter at these rates.

I ask unanimous consent that a copy of the Postal Service Regulations, as amended through June 22, 1977, be printed in the RECORD at the conclusion of these remarks.

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

[From Federal Register, June 22, 1977]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Procedures for the Appeal of Mail ability and Eligibility Rulings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This notice announces the amendment of Postal Service regulations which will, among other things, simplify the filing of applications for second-class mail privileges and will clarify and prescribe the appeal procedures for rulings on mailability of mailable matter.

EFFECTIVE DATE: June 22, 1977.

FOR FURTHER INFORMATION CONTACT: Arthur Cahn, 202-245-4604.

SUPPLEMENTARY INFORMATION: On March 2, 1977, the Postal Service published for comment in the FEDERAL REGISTER (42 FR 12069-12071) a proposal to change under the provisions of 39 CFR 111.3, Parts 123, 132, 133, 134, 135 and 146 of the Postal Service Manual to clarify and prescribe the ruling authorities and appeal procedures for adverse rulings on mailability of matter, and on the eligibility of mailable matter for second-class, controlled circulation, and special third-cass postage rates.

The Postal Service also proposed to delete its regulations concerning action organizations in section 134.53(a)-(c) of the Postal Service Manual and to amend section 132.3 of the Postal Service Manual to allow publishers to simultaneously file applications for all additional second-class mail privileges with their application for a second-class original entry permit.

The Postal Service received one comment which suggested that the proposed revision should be amended to require an organization applying for the special third-class rate to have an equivalent Federal income tax exemption, and that the Postal Service grant and maintain the special third-class rate in effect so long as the permit holder is exempt from Federal income tax. To a certain extent the Postal Service now does what the comment suggests. Section 134.541 of the Postal Service Manual provides as follows:

Application on Form 3024, Application to Mail at Special Bulk Third-Class Rates for Qualified Nonprofit Organizations or Associations, must be filed by the organization or association at the post office where mailings will be deposited. The application must include evidence that the organization is nonprofit, and, if available, a certificate of exemption from Federal income tax should accompany the application. An exemption from the payment of Federal income tax is not required in order to qualify for the special third-class bulk rates. Such exemption will be considered as evidence of qualification for preferred Postal rates but will not be controlling in the matter. When an organization submits proof that it has been granted income tax exemption under Title 26, United States Code, section 501(c)(3), as a religious, educational, scientific, or charitable (philanthropic) organization; under section 501(c)(5) as an agricultural or labor organization; under section 501(c)(8) as a fraternal organization; or under section 501(c)(19) as a veterans' organization. it will be considered as qualifying for the special third-class rates unless the available evidence discloses some disqualification.

There are thousands of small qualifying organizations which apply for nonprofit second- and third-class rates which do not have IRS exemptions and have no need for such. The Postal Service feels that it would be improper in these instances to require an organization to go to the expense of obtaining an IRS exemption it does not need in order to obtain nonprofit mailing status. For those organizations that do seek IRS exemptions, however, the regulation quoted above means that the Postal Service generally acts in a parallel fashion to IRS, though the regulation retains the possibility of an independent administrative choice, in line with the authority implied by statute.

There being no other comments concerning the proposed regulation, the Postal Service adopts the following amendments to the Postal Service Manual, effective June 22, 1977.

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

1. In 123.3 revise the first sentence of .31; and revise .33 and .37 to read as follows:

123.3 *Advice to Mailers—Mailability Decisions.*

.31 *General Advice.* When a mailer seeks advice from the postmaster as to whether particular matter may be mailed, or where the postmaster otherwise learns that matter of questionable mailability is to be mailed, it is the postmaster's responsibility to call to the mailer's attention the relevant provisions of Part 123 and 124 and any relevant guidelines issued by the Postal Service.

* * * * *

.33 *Mailability decision authorized.* Postmasters may decide whether articles and substances (Part 124) are nonmailable and shall, where appropriate, refuse to accept for mailing such matter determined to be nonmailable. Where necessary, it is recommended that the postmaster consult the postal service center for guidance in determining mailability. If the mailer desires review of the postmaster's decision, the postmaster shall refer a sample of the item offered for mailing or a complete statement of the facts, whichever may be appropriate, to the Director, Office of Mail Classification, Rates and Classification Department. Further appeal may be made in accordance with 123.37.

* * * * *

37. *Administrative Appeals.* A mailer may appeal any unfavorable mailability decision under Part 123 or Part 124 by filing a written Notice of Appeal with the Docket Clerk U.S. Postal Service, Washington, D.C. 20260, together with a copy or description of the determination or ruling in question. Such appeals shall be governed by 39 CFR Part 953, Rules of Practice in Proceedings Relative to Mailability.

PART 123—SECOND CLASS

2. In 132.3 delete the heading of .31 and insert the following in lieu thereof; add new .311 heading, and new .312, .313, .314, and .315 as follows; delete .33 and .34; redesignate .35 as .33; redesignate .36 as .34 and revise to read as follows; add new .35 and .36 as follows:

132.3 *Applications for second-class privileges.*

.31 The following applications should be filed by the publisher at the post office where the publication maintains its known office of publication. (See 132.222.)

.311 *Original entry applications for publications and new agents.*

* * * * *

.312 *Additional entry application.* A publisher may apply for permission to mail at additional entry post offices. A written request for an additional entry must be filed by the publisher at the post office where the publication has original second-class entry. A form is not provided for an additional entry application. The result may accompany the application for original entry. See 132.33 for fees required. The request must include the following information:

(a) Name of publication.

(b) Frequency of issue.

(c) Name of place where publication is printed.

(d) Name of the additional entry post office.

(e) Approximate number and weight of copies to be mailed at the additional entry post office.

(f) Specific geographical area to be served from the additional entry office. (The geographical area served by the additional entry office must include the entire local delivery area of the additional entry office).

An additional entry will be authorized at a post office located in the same county in which the office of original entry is located only when the publication is entirely or partly produced or prepared for mailing at the additional entry office (see 132.315 for available exceptional dispatch privileges).

An additional entry will be authorized only at a post office served by transportation facilities which will enable the mailings to be effectively and economically handled in the postal transportation patterns.

.313 *Application for special rates.* A publisher may apply for permission to mail at special rates. A written request for special rates must be filed by the publisher at the post office where the publication has original second-class entry. The request may be filed jointly with the application for original entry or filed separately at the post office of original entry after a publication has been granted second-class mailing privileges.

(a) *Special rate.* Non-profit organizations and associations listed in 132.122 may apply to the postmaster for the special second-class rates. They must submit evidence to establish their non-profit status and to show that they come within one of the categories stated.

(b) *Classroom rate.* Publishers of religious, educational, or scientific publications designed for use in school classrooms or in religious instruction classes may apply to the postmaster for the classroom rate listed in 132.123. They must submit evidence showing that their publications are of this character and for the uses stated.

(c) *Science of agriculture rate.* Publishers of publications designed to promote the science of agriculture may apply to the postmaster for the special zones 1 and 2 advertising rate listed in 132.124. They must submit evidence that their publications are of the character and for the use stated and that more than 70 percent of the copies distributed by any means for any purpose during any twelve-month period are to subscribers residing in rural areas.

.314 *Application for reentry.* When the name or frequency of issuance of a publication is changed, an application for reentry must be filed on Form 3510 at the post office of original entry, accompanied by two copies of the publication showing the new name or frequency. When the location of the known office of publication is changed, an application for reentry must be filed on Form 3510 at the new office, accompanied by two copies of the publication showing the name of the new office as the known office of publication. Copies of second-class publications will be accepted for mailing at the second-class postage rates during the time applications for their reentry are pending. Copies of Form 3510 may be obtained from local postmasters. An application for reentry is not required when only the ownership is changed unless the change disqualifies the publication for an entry which was authorized under 132.23.

.315 *Application for exceptional dispatch.* An application to deliver copies of a second-class publication at the publisher's expense and risk from the post office of original entry or an additional entry post office to other post offices or elsewhere may be filed by the publisher at the office of original or additional entry where the postage is paid on the copies which will be transported. Applications for exceptional dispatch may be filed jointly with applications for original entry, reentry, or special rates. A form is not provided for applications for exceptional dispatch. The postmasters at the office of original or additional second-class entry will approve or disapprove applications on the basis of whether the exceptional dispatch will improve service. They will notify other post offices concerned and the sectional center manager of approved arrangements and include a list showing how the sacks or outside bundles are to be labeled and the approximate number of copies. Only after notification by the postmaster at the entry office where the postage is paid shall copies be accepted at another office directly from the publisher. At least once each 6 months the accepting postmaster shall verify the number of copies received directly from the publisher. Any significant increase noted at the time of verification or at any other time shall be reported to the entry office where the postage is paid. Denial of an application for exceptional dispatch may be appealed to the Director, Office of Mail Classification, who will issue the final agency ruling.

* * * * *

.34 *Granting or denial of application.* The Director, Office of Mail Classification, Rates and Classification Department, Headquarters, rules on all applications for second-class mail privileges, special rates, additional entry, and reentry.

.341 *Granting of application.* If the Director grants the application, he notifies the postmaster at the office where the application for original entry was filed, who shall notify the applicant. Before taking action, on an application, the Director may call on the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish the information requested may be cause for denial of the application as incomplete or, on its face, not fulfilling the requirements.

.342 *Denial of application for original entry.* If the Director denies the application, he will notify the publisher specifying the reasons for the denial. A denial of second-class mail entry is effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, Washington, D.C. 20260, in accordance with the provisions of 39 CFR § 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second Class Mail Privileges. A copy of the Rules will be included with any notice of denial of an application.

.343 *Denial of applications for additional entries, special rates, and reentry.* If the Director denies an application for additional entry, special rates, or reentry made in accordance with sections 132.312–.314, he will notify the publisher specifying the reasons for the denial. The denial becomes effective 15 days from receipt of the notice by the publisher unless the publisher files an appeal with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

.35 *Revocation or suspension of second-class privileges.*

.351 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.352 The Director, Office of Mail Classification, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons for his action. The ruling becomes effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, in accordance with the provisions of 39 CFR Part 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second Class Mail Privileges. A copy of the Rules will be included with any notice of revocation or suspension.

.36 *Revocation for additional entries, special rates, reentry, and exceptional dispatch.* The Director shall revoke authorizations for additional entry, special rates, reentry and exceptional dispatch whenever he finds that a publication or organization is no longer entitled to such authorization. Whenever the Director revokes any such authorization, he shall notify the publisher or organization specifying the reasons for the revocation. The revocation is effective 15 days from receipt of the notice by the publisher or organization unless an appeal is filed with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

132.8 [Deleted]

3. Delete 132.8.

PART 133—CONTROLLED CIRCULATION PUBLICATIONS

4. Revise the last sentence of 133.22 to read as follows: "The postmaster will submit the application and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. Notice of authorization or denial will be furnished by the General Manager, Domestic Mail Classification Division."

5. Redesignate 133.23 as 133.24; add new 133.23 and 133.25 reading as follows:

133.23 *Appeal of denial.* If the application is denied and the mailer wishes to appeal, he may submit an appeal in writing within 15 days of receipt of the notice of denial to the postmaster who will forward the appeal to the Director, Office of Mail Classification for a final ruling.

133.25 *Revocation of controlled circulation privileges.*

.251 If a publication is discontinued, or fails to meet the requirements described in Part 133, the postmaster should report all the facts, including the publisher's current mailing address, to the General Manager, Domestic Mail Classification Division, so that a determination may be made as to whether action should be taken to revoke the controlled circulation mail privileges.

.252 If it is determined that a publication authorized to be mailed at the controlled circulation rates is no longer qualified, the General Manager, Domestic Mail Classification Division shall notify the publisher and the postmaster at the office of entry. Controlled circulation privileges will be revoked 15 days from receipt of the notice by the publisher unless an appeal is filed with the postmaster who will forward it to the Director, Office of Mail Classification for a final agency ruling.

PART 134—THIRD CLASS

6. Add new 134.23 reading as follows:

134.23 *Contested classification.* See 146.141.

7. Revise 134.53 to read as follows:

134.53 *Examples of organizations or associations that may not qualify.* The following and similar organizations do not come within the prescribed categories even though they may be organized on a nonprofit basis: Automobile clubs; business leagues; chambers of commerce; citizens' and civic improvement associations; individuals; mutual insurance associations; political organizations; service clubs such as Civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; and trade associations. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county, or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic) since their income is generally not derived primarily from voluntary contributions or donations.

8. Amend 134.542 by adding the following sentence at the end thereof: "Before taking action on an application or appeal, additional information or evidence may be requested to support or clarify the application. Failure of an organization to furnish the information is sufficient reason to deny an application or revoke existing authorization.

9. Revise the last sentence of 134.543 to read as follows: "The papers will be returned to the postmaster at the postal services center with the final decision on the appeal by the General Manager, Domestic Mail Classification Division."

10. Revise 134.56 to read as follows:

134.56 *Revocation.*

.561 The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 15 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will revoke the authorization. If an appeal is filed, a decision on the continuance of the authorization will be made by the General Manager. Domestic Mail Classification Division. Notice of the decision will be given to the organization through the postmaster.

.562 A review of any organization authorized to mail at the special third-class rates may be initiated or undertaken at any time by the General Manager, Domestic Mail Classification Division. If the General Manager, after a review, determines that an organization is no longer qualified, he will notify the organization, through the postmaster, of the proposed revocation of the authorization and the reasons for the revocation. The revocation becomes effective 15 days from receipt of the notice unless the organization files a written appeal, with the Director, Office of Mail Classification, who will issue the final agency decision.

PART 135—FOURTH CLASS

11. Add new 135.27 reading as follows:

135.27 *Contested Classification.* See 146.-141.

PART 146—PREPAYMENT AND POSTAGE DUE

12. Revise the last sentence of 146.141 to read as follows: * * * The postmaster will forward the appeal to the General Manager, Domestic Mail Classification Division, U.S. Postal Service, Washington, D.C. 20260, who will issue the final agency decision.

13. Redesignate 146.142 as 146.143 and add new 146.142 reading as follows:

146.142 Any mail classification decision made initially by the General Manager, Domestic Mail Classification Division, or General Manager, Special Services Division, or General Manager, International Mail Division, for which there is no specified appeal procedures may be appealed within 15 days to the Director, Office of Mail Classification, who will issue the final agency decision. If, however, the Director participated in any such decision, the appeal will be decided by the Assistant Postmaster General, Rates and Classification Department.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3 (39 U.S.C. 402(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-17819 Filed 6-21-77;8:45 am]

[POSTAL SERVICE MANUAL]

134.5 QUALIFICATION REQUIREMENTS AND APPLICATION PROCEDURE FOR SPECIAL THIRD-CLASS RATES

.51 KINDS OF ORGANIZATIONS OR ASSOCIATIONS THAT MAY QUALIFY

Only the following organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, may be authorized to mail pieces at the special rates provided by 134.121 and 134.122:

a. Religious
b. Educational
c. Scientific
d. Philanthropic
e. Agricultural
f. Labor
g. Veterans'
h. Fraternal

.52 QUALIFICATION STANDARDS

.521 Primary Purpose

The standard of *primary purpose* in these definitions shall require that the organization be both organized for and operated for the primary purpose. Organizations which incidentally engage in qualifying activities only to accomplish other goals do not meet the primary purpose test.

.522 Definitions

a. Religious

A nonprofit organization whose primary purpose is one of the following:

(1) To conduct religious worship—for example, churches, synagogues, temples, or mosques;

(2) To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

(3) To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational

A nonprofit organization whose primary purpose is: (1) the instruction or training of the individual for the purpose of improving or developing his capabilities; or (2) the instruction of the public on subjects beneficial to the community. An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

The following are examples of organizations which are educational:

(1) An organization, such as primary or secondary school, a college, or a professional or trade school, which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on;

(2) An organization whose activities consist of presenting public discussion groups, forums, panels, lectures, or other similar programs. Such programs may be on radio or television;

(3) An organization which presents a course of instruction by means of correspondence or through the utilization of television or radio;

(4) Museums, zoos, planetariums, symphony orchestras, and other similar organizations.

c. Scientific

A nonprofit organization whose primary purpose is one of the following:

(1) To conduct research in the applied, pure or natural sciences;

(2) To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic (Charitable)

A nonprofit organization organized and operated for purposes beneficial to the public. Examples of philanthropic (charitable) organizations are organizations which are organized for:

(1) Relief of the poor and distressed or of the underprivileged;

(2) Advancement of religion;

(3) Advancement of education or science;

(4) Erection or maintenance of public buildings, monuments, or works;

(5) Lessening of the burdens of Government;

(6) Promotion of social welfare by organizations designed to accomplish any of the above purposes or;

(a) to lessen neighborhood tensions;

(b) to eliminate prejudice and discrimination;

(c) to defend human and civil rights secured by law; or

(d) to combat community deterioration and juvenile delinquency.

The fact that an organization which is organized and operated for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily prevent such organization from being exempt as an organization organized and operated exclusively for charitable purposes. The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying so long as it is not an *action* organization as described in 134.53 (a), (b), (c).

e. Agricultural

A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may further and advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, bees, etc., or other activities relating to agricultural interests. The term agricultural also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor

A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment, working conditions, etc. Examples are labor unions and employees' associations formed for the stated purposes.

g. Veterans'

A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal

A nonprofit organization which meets all of the following criteria:

(1) Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

(2) Is organized under a lodge or chapter system with a representative form of government;

(3) Follows a ritualistic format; and

(4) Is comprised of members who are elected to membership by vote of the members.

Fraternal organizations include such organizations as the Masons, Knights of Columbus, Elks, college fraternities, and the like. Fraternal organizations do not encompass such organizations as business leagues, professional associations, civic associations or social clubs.

.53 EXAMPLES OF ORGANIZATIONS OR ASSOCIATIONS THAT MAY NOT QUALIFY

The following and similar organizations do not come within the prescribed categories even though they may be organized on a nonprofit basis: Automobile clubs; business leagues; chambers of commerce; citizens' and civic improvement associations; individuals; mutual insurance associations; political organizations service clubs such as civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; trade associations; and religious, educational, scientific, and philanthropic *action* organizations. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic), since their income is generally not derived primarily from voluntary contributions or donations.

Religious, educational, scientific and philantrophic *action* organizations for purposes of this section are defined as follows:

(a) An organization is an *action* organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization—

(1) contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or

(2) advocates the adoption or rejection of legislation.

The term *legislation*, as used in this subdivision, includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. An organization will not fail to meet the operational test merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation.

(b) An organization is an *action* organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term *candidate for public office* means an individual who offers himself or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the public or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

(c) An organization is an *action* organization if it has the following two characteristics: (1) its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (2) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.

.54 APPLICATION

.541 Filing

Application on Form 3624. *Application to Mail at Special Bulk Third-Class Rates for Qualified Nonprofit Organizations or Associations*, must be filed by the organization or association at the post office where mailings will be deposited. The application must include evidence that the organization is nonprofit, and, if available, a certificate of exemption from Federal income tax should accompany the application. An exemption from the payment of Federal income tax is not required in order to qualify for the special third-class bulk rates. Such exemption will be considered as evidence of qualification for preferred Postal rates but will not be controlling in the matter. When an organization submits proof that it has been granted income tax exemption under Title 26, United States Code, section 501(c)(3), as a religious, educational, scientific, or charitable (philanthropic) organization; under section 501(c)(5) as an agricultural or labor organization; under section 501(c)(8) as a fraternal organization; or under section 501 (c)(19) as a veterans' organization, it will be considered as qualifying for the special third-class rates unless the available evidence discloses some disqualification.

.542 Approval or Denial

The application Form 3624 together with any supporting papers will be sent to the postal services center. (Pending a decision, bulk mailings subject to the minimum per piece charge may be handled in accordance with 134.55.) The postmaster at the postal services center will approve or deny the application. The application Form 3624 and any supporting papers will be returned with the decision to the postmaster where the application was filed for notification of the applicant.

.543 Appeal

The decision of the postmaster at the postal services center may be appealed by the applicant, in writing to the postmaster where the application was filed. The postmaster will forward the appeal to the postal services center. If, after a review of the file, the postmaster at the postal services center is still of the opinion that the organization does not qualify, he shall furnish a statement of the reasons for his denial action to the Rates & Classification Department, Domestic Mail Classification Division. The complete file, including the original application and all supporting papers, should be submitted. The papers will be returned to the postmaster at the postal services center with notification of decision on the appeal.

.55 TEMPORARY MAILINGS

Until final action is taken on the application, postage paid on the mailings may be at the special rates, provided the mailer deposits with the postmaster an amount sufficient to cover the additional postage at the higher rates. (See 134.121 and 134.122). This deposit will be returned to the mailer if the application is approved. If the application is denied, the deposit will not be returned. The deposit will be converted into postage-due stamps which will be canceled and given to the mailer if no appeal is made. If appeal is made, action concerning the deposit will be deferred.

.56 REVOCATION

The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster who approved the application will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 10 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will cancel the authorization. If an appeal is filed, decision on the continuance of the authorization will be made by the Rates & Classification Department, Domestic Mail Classification Division. Notice of the decision will be given the organization through the postmaster.

.57 WHAT MAY BE MAILED AT THE SPECIAL BULK THIRD-CLASS RATES FOR QUALIFIED NONPROFIT ORGANIZATIONS

An organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special third-class rates to any other person, organization or association. Cooperative mailings may not be made at the special bulk third-class rates for qualified nonprofit organizations if one or more of the cooperating persons or organizations is not entitled itself to the special rates. Cooperative mailings involving the mailing of matter in behalf of or produced for an organization not authorized to mail at the special bulk third-class rates for qualified nonprofit organizations must be paid at the applicable regular rate. If customers disagree with a postmaster's decision that the regular rate of postage applies to a particular mailing, the procedures in 146.14 may be followed.

Mr. CANNON. Mr. President, approximately 30,000 nonprofit organizations are eligible under Postal Service regulations for the reduced second-class mail and reduced third-class bulk mail rates. These would include, for example, Common Cause, the National Right To Work Legal Defense and Educational Foundation, the American Legion, the Knights of Columbus, any labor organization, the American Chemical Society, and the Rockefeller Foundation.

Mr. President, this is simply a logical extension beyond those groups that have had this right for a long period of time. I propose, if the time is either used or yielded back, to move that the amendment be laid on the table.

Mr. GRIFFIN. Will the Senator withhold that?

Mr. CANNON. Certainly.

Mr. GRIFFIN. The Senator, in his presentation, has pretty much confirmed what the situation is today. He outlines what the regulations are. I ask the Senator from Nevada, is it true that if business organizations send out political mailings they do not get the 2-cent rate?

Mr. CANNON. If they are not nonprofit. I do not know of any business organization that is. Some of them may be nonprofit, but not by design.

Mr. GRIFFIN. Even if they are nonprofit, is it not the case that they do not have this rate?

Mr. CANNON. If they are nonprofit and they come under this category of religious, educational, scientific, philanthropic, agricultural, labor, veterans, and fraternal.

Mr. GRIFFIN. Obviously, they do not come under that.

Mr. CANNON. They may. Some of the agricultural organizations may.

Mr. GRIFFIN. I can tell the Senator

from Nevada that I have checked into it and they do not.

Mr. CANNON. I do not know why the Senator asked me the question if he already knew the answer.

Mr. GRIFFIN. I thought he might recognize that such is the case.

I do not think that business should have such a special rate. I am not advocating that they should get it. On the other hand, I think our laws, should be even-handed as between business and labor organizations when it comes to such matters as political mailings. I believe most people in the country feel the same way.

In the last election, according to the National Journal, in addition to the public financing that was available and other expenditures that were made in the Presidential campaign, organized labor spent $11 or $12 million supporting President Carter, while business organizations spent something between $1 and $2 million supporting President Ford. It ought to be noted that those figures for organized labor do not include amounts that taxpayers paid on top of that for the 6-cent postal subsidy given to unions for each piece of political mail.

In the Wall Street Journal of September 21, 1976, there was a note that:

> AFL–CIO officials fear their campaign plans may be ruined by a Federal court order issued against the Postal Service in Seattle with apparent national implications. * * * Union officials blast the order as a political ploy which would nearly quadruple their fall campaign postal costs to $4.6 million from $1.2 million, forcing a cut in their plans to make 60 million political mailings.

To give some idea of how much money may be involved, I wrote to the Postmaster General and asked some questions about these matters, trying to get information. I did get some information. Although I cannot be specific as to how much was actually used for political mailings, I can point out that, in 1976, the nonprofit mailings sent out at the 2-cent rate cost the Post Office Department and, therefore, the taxpayers, $293 million——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. I wonder if I might have some time on the bill.

Mr. HATFIELD. I am happy to yield the Senator 3 minutes on the bill.

Mr. GRIFFIN. It cost the taxpayers $293 million. As I say, I am not suggesting that all of those mailings were political mailings. But recently we were arguing about the excess of $21 million that was left over from the checkoff in the Presidential campaign and whether it should be used for senatorial races. We were talking about peanuts as compared to the amounts involved here.

In view of the mammoth postal deficit that we have and the threat that first-class postal rates are going up for the average person who uses the Postal Service, I cannot imagine that any Senator would go along with the language now in the bill—that any Senator would vote against this amendment. The amendment merely seeks to see that labor organizations pay for their political mailings at the same rate that your political committee or any other political committee has to pay for political mailings.

I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time. I move to lay the amendment of the Senator from Michigan on the table. 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 lay on the table the amendment of the Senator from Michigan. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. ZORINSKY assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS) and the Senator from Minnesota (Mr. ANDERSON) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 54, nays 37, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—54

Bayh	Glenn	McIntyre
Bentsen	Gravel	Melcher
Biden	Hart	Metzenbaum
Brooke	Haskell	Moynihan
Bumpers	Hathaway	Muskie
Burdick	Hollings	Nelson
Byrd, Robert C.	Huddleston	Nunn
Cannon	Humphrey	Packwood
Case	Inouye	Pell
Church	Jackson	Proxmire
Clark	Javits	Ribicoff
Cranston	Johnston	Riegle
Culver	Kennedy	Sarbanes
DeConcini	Leahy	Sasser
Durkin	Magnuson	Stafford
Eagleton	Mathias	Stone
Eastland	Matsunaga	Talmadge
Ford	McGovern	Williams

NAYS—37

Allen	Griffin	Roth
Baker	Hansen	Schmitt
Bartlett	Hatch	Schweiker
Bellmon	Hatfield	Scott
Byrd, Harry F., Jr.	Hayakawa	Stevens
Chafee	Heinz	Stevenson
Chiles	Helms	Thurmond
Curtis	Laxalt	Tower
Danforth	Long	Wallop
Dole	Lugar	Weicker
Domenici	McClure	Young
Garn	Morgan	Zorinsky
	Pearson	

NOT VOTING—9

Abourezk	McClellan	Randolph
Anderson	Metcalf	Sparkman
Goldwater	Percy	Stennis

So the motion to lay Mr. GRIFFIN's amendment on the table was agreed to.

UP AMENDMENT NO. 719

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

Mr. HATFIELD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will please take their seats or retire to the cloakroom.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 719.

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

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

The amendment is as follows:

On page 44, line 2, strike out "or".

On page 44, line 13, strike out the closing quotation marks and the period and insert in lieu thereof "or".

On page 44, between lines 13 and 14, insert the following:

"(M) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;".

On age 46, line 19, strike out "or".

On page 47, line 6, strike out the closing quotation marks and the period and insert in lieu thereof "or".

On page 47, between lines 6 and 7, insert the following:

"(O) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as a candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;".

Mr. DOLE. Mr. President, if I may have the attention of my colleagues for just 1 minutes, I think we can dispose of this amendment.

My amendment would clarify an ambiguity in the current campaign law which has plagued a number of Senators. Section 441b of the Federal elections laws restricts corporate or labor union contributions or expenditures made "in connection with" a Federal election. Unfortunately, it is unclear exactly what is and what is not "in connection with" such an election. This is a very perplexing problem as it relates to travel.

The FEC has not given us a definitive statement telling us how they would classify different kinds of travel. Requests

for further clarification from the FEC have proven unsuccessful, except that the FEC has agreed that travel by a noncandidate to speak before the local chamber of commerce would not be "in connection with" a Federal election. Beyond that, however, the FEC seems reluctant to tell us what Congress meant when we used that phrase in the campaign law.

Since the FEC cannot tell us what we meant, I propose to redefine the phrase "contribution or expenditure" to alleviate the problem. The amendment says that travel will not be a "contribution or expenditure" unless it involves a candidate's own campaign event, or unless it is travel to one's own home State during the year in which that seat is up.

This has been a very real problem, up to now. This amendment clarifies the meaning of the law, solves the problem, and provides workable guidelines for the future. It improves and clarifies a very perplexing situation caused by the wording of the current Federal election law.

There might be cases, even in an election year, when you would be exempt if you were going to a funeral or an event of that kind; but clearly, if it is a political event, you would be excluded from traveling on corporate planes or cars or any other transportation furnished by corporations or labor unions.

Mr. President, I have discussed this amendment. I think it is acceptable.

Mr. CANNON. Mr. President, I have discussed this amendment with the Senator from Kansas. I believe it is a good amendment, and I am willing to accept it.

I yield back the remainder of my time.

Mr. DOLE. 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. 720

Mr. SCHMITT. Mr. President, I have an amendment at the desk and request its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes unprinted amendment No. 720.

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

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

The amendment is as follows:

On page 59, between lines 2 and 3, insert the following:

(b) Section 315(a) of the Act (2 U.S.C. 438(a)) is amended by adding at the end thereof the following:

"The Commission shall determine the subject of its audits under paragraph (8) (except those relating to payments received by a candidate under Chapter 95 or Chapter 96 of the Internal Revenue Code of 1954) by a random procedure in a manner to be determined by the Commission. No candidate for election or for nomination for election to the Senate or the House of Representatives shall be audited by the Commission more than once in any calendar year.

Nothing in this subsection shall prohibit the Commission from conducting audits when it has received a complaint or where it has other information leading it to believe that such an audit is required."

Mr. SCHMITT. Mr. President, I think it is important for all candidates for election to the U.S. Senate and to the Congress to be assured of fairness in the auditing of their campaign records.

Because of the possibilities that there might be a misuse of the discretion now available to the Federal Election Commission of this auditing procedure, I think it is important to insure that that procedure is random.

This amendment simply would have that effect. It would require the Commission to determine the audits by a random procedure in a manner to be determined by the Commission itself.

No candidate for election or for nomination for election to the Senate or the House of Representatives shall be audited by the Commission more than once in any calendar year in the event that that should occur randomly.

Also, I think it is important to note that this amendment would do nothing that would prohibit the Commission from conducting audits when it has received a complaint about a particular candidate's campaign procedures or where it has other information leading it to believe that such an audit is required.

I think this amendment is in the best interest of all candidates and potential candidates for the Congress, and I believe the distinguished chairman and floor manager is willing to accept this amendment. If he is then I will not require any further consideration.

Mr. CANNON. Mr. President, I have discussed the amendment with the Senator from New Mexico. I think the provision for a random audit is good. It does not prohibit the Commission from conducting audits where it has received a complaint or where it has other information leading it to believe that such an audit is required, but it does insist on fairness simply by a random method of selection for the audits that are made on any periodic basis, and I am willing to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SCHMITT. I yield back my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment.

UP AMENDMENT NO. 721

Mr. CANNON. Mr. President, I send an amendment to the desk, a technical amendment, and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes technical unprinted amendment No. 721:

On page 41, strike out line 4.

On page 41, line 5, strike out "part" and insert in lieu thereof "Act".

On page 43, line 9, strike out "for" and insert in lieu thereof "to".

On page 54, line 8, after "Section 403(e)" insert "of the Act".

On page 65, line 5, strike "411b" and insert in lieu thereof "441b".

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, those amendments are strictly amendments of a technical nature, and I hope the Senate will agree to it.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

UP AMENDMENT NO. 722

The PRESIDING OFFICER. The Senator from Idaho.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment numbered 722.

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

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

The amendment is as follows:

On page 59, line 3, strike out "(b)" and insert in lieu thereof "(c)".

On page 59, between lines 2 and 3, insert the following:

(b) Section 315(a)(10) of the Act (2 U.S.C. 438(a)(10)) is amended by inserting at the end thereof the following: "In prescribing such rules and regulations, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules and regulations which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this paragraph.".

Mr. McCLURE. Mr. President, there is a problem which is building which, I think, we can solve.

The problem is easy to state. The solution is harder to state. The contributions and expenditures of money and other things of value for political purposes are regulated not only by the Federal Election Campaign Act, as amended, but they are also subject to the Internal Revenue Code of 1954.

Unless appropriate steps are taken it is entirely possible and, in fact, now seems likely, that there will be conflicting regulations promulgated by the FEC and IRS. Individuals and political committees might—and I think probably will—find themselves in an irreconcilable conflict obeying one set of regulations which will place them in violation of another.

Moreover, the confusion and inconsistency between the FEC and IRS regulations, even if not totally contradictory, will lead to unnecessary paperwork and lawyers' fees and widespread uncertainty about how to proceed.

Mr. President, it seems to me we might try to resolve this issue by providing that the regulations come back to Congress for resolution. We already, under this bill, provide that the regulations of the Federal Election Commission are referred back to Congress under the existing law, and this bill changes the period of time for those reviews from 30 days to 20 days.

Another section of this bill calls for the

reference of IRS regulations back to Congress for review so far as they relate to the IRS audit of the Presidential campaign funds. That is in existing law.

The bill before us seeks to amend that provision in conformity with the other, providing for the 20-day review by Congress of that set of regulations.

What I would suggest is that the law be amended at the appropriate place to provide that the Commissioner of Internal Revenue is directed to submit any Internal Revenue regulations concerning political committees to Congress for a period of 20 legislative days as defined in 2 U.S.C. 438, and such regulations shall be subject to approval or rejection provisions contained in that section.

This would subject those IRS regulations to precisely the same kind of review that is required of the FEC regulations and of the IRS regulations dealing with the audit of the Presidential campaign funds.

I think a statement of the problem is easy to make. There may be other solutions to the problems that are preferable to this. I am open on the solution, but I think this suggestion perhaps might work our way out of what otherwise might be a dilemma.

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

Mr. McCLURE. I would be happy to yield to the Senator from Iowa.

Mr. CLARK. I read the amendment the Senator sent to the desk, and it seemed to me the amendment simply said the IRS and the FEC ought to cooperate on such matters, and that seemed perfectly sensible. It seemed to me the explanation I just heard was a rather different one.

Mr. McCLURE. I thank the Senator for bringing that up. I have two different amendments. One of them to which the Senator refers simply requires consultation but provides no mechanism by which the conflicts would be resolved.

The other amendment which is at the desk calls for the submission of the IRS regulations back to Congress, and I would invite the Senator's attention to that one.

Mr. CLARK. Does the Senator withdraw his other amendment?

Mr. McCLURE. The amendment which I have at the desk is to be considered, I would say, and is the one that calls for the reference of the IRS regulations to Congress as FEC regulations and other IRS regulations are.

Mr. CLARK. Then the Senator, if I understand his intent, would give Congress a veto over IRS regulations that involve electoral questions.

Mr. McCLURE. I would say to the Senator that is correct, in exactly the same way that we have the veto on the FEC regulations or on the IRS regulations dealing with the audit of Presidential campaign funds.

Let me identify to the Senator from Iowa my dilemma. We do not know when there is going to be a conflict between the two regulations. We have no mechanism by which we identify either the existence of a conflict or the area of a conflict until after somebody is caught in it.

It seems to me that unless we devise some mechanism to identify the conflict and then trigger a resolution process that somebody is going to be caught before we find out that the problem exists.

The only other way I can see to avoid that conflict is to impose that obligation upon us to identify whether the problem exists and to try to conform the regulations here at this level in Congress as we do on the FEC regulations themselves.

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

Mr. McCLURE. I am happy to yield to the Senator from New Mexico.

Mr. SCHMITT. I just might add to this that there is a considerable degree of uncertainty even today about what the IRS may or may not do with respect to the funds expended by a political committee after an election. I think all of us who now under the new code of conduct are utilizing our political committee for certain necessary and actually approved office expenses would, in fact, appreciate some amendment of the kind proposed by the Senator from Idaho. It would help to remove that uncertainty or at least resolve it in a timely manner when the actual event occurred.

I commend the Senator for his efforts in this area.

Mr. McCLURE. I thank the Senator from New Mexico.

I am happy to yield to the Senator from Iowa.

Mr. CLARK. If the Senator will yield 1 minute, I do not intend to ask for a rollcall vote. I do not know how any other Member of the body feels. I think the Senator has some justice in saying that if we are going to be able to veto regulations from the FEC, that it makes sense to do so for the IRS. I personally feel it is a mistake for Congress to have a veto over either the FEC or the IRS. I think if we are going to decide what IRS regulations apply to us and our political cases, we are really going beyond an area that we should be regulating. It seems to me we are better to leave that to IRS than for us to decide what IRS regulations apply to us. But I think I would be in the minority in that.

Mr. McCLURE. Will the Senator agree that there is the possible problem of the conflict between the two?

Mr. CLARK. Yes.

Mr. McCLURE. And there has to be devised some mechanism for the resolution of that conflict other than some poor political committee treasurer going to jail in the effort to find out which of the regulations is correct.

Mr. CLARK. I agree. I hope the Senator's first amendment, really addressed to that—maybe not in such a final way—at least will attempt to bring the two together and force them to come to some conclusion together rather than leaving it to Congress.

Mr. McCLURE. I appreciate the comments of the Senator from Iowa.

Mr. CANNON. Mr. President, I can support the Senator from Idaho insofar as requiring the IRS and the FEC to consult and work together to promulgate rules that are mutually consistent. But I could not support giving Congress the right to veto proposed IRS regulations in this particular area.

I think that, if we direct that they consult and work together and that they report to Congress annually on the steps they have taken to comply with that direction, that would give us a handle on it that if we were required to take further action on, we could.

Do I understand that the Senator has two amendments he is offering?

Mr. McCLURE. The Senator is correct. I offered the first one, the IRS referral amendment, as the first of the two amendments.

Mr. CANNON. Is that the one that I have here that says:

On page 59, between lines 2 and 3, insert the following:

(b) Section 315(a)(10) of the Act (2 U.S.C. 438(a)(10)) is amended by inserting at the end thereof the following: "In prescribing such rules and regulations, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules and regulations which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this paragraph.".

Mr. McCLURE. I say to the Senator that is the second of my two amendments. The other the Senator from Iowa had is the one that calls for the referral of the IRS regulations.

Mr. CANNON. Referral back to Congress.

Mr. McCLURE. Back to Congress.

Mr. CANNON. I would have to oppose that amendment then. The other amendment I would be willing to accept, but I cannot accept this amendment.

If the Senator will yield back his time, Mr. President, I yield back the remainder of my time.

Mr. McCLURE. Mr. President, will the Senator withhold that for just one moment?

Mr. CANNON. Yes.

Mr. McCLURE. Mr. President, I appreciate the good faith effort of the Senator from Nevada to accommodate a solution to the problem. The only reason I offered the one that calls for the IRS referral is because the other does not have any resolution mechanism. It only calls for them to consult, which would be an improvement, and in the event that the amendment offered by the Senator from Idaho on the reference of the IRS regulations is not approved by the Senate I would offer the other one, I would say to both the Senator from Nevada and the Members of this body.

But I would hope that we might get the IRS reference amendment adopted because that would impose a resolution mechanism, and the other does not.

I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time and move to table the amendment of the Senator from Idaho.

The PRESIDING OFFICER. Does the Senator from Idaho yield back the remainder of his time?

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

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to lay on the table.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. (Putting the question.) The ayes have it and the motion is tabled.

UP AMENDMENT NO. 723

Mr. McCLURE. Mr. President, I offer my second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment No. 723.

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

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

The amendment is as follows:

On page 70, after line 16, insert the following:

The Director of Internal Revenue is directed to submit any Internal Revenue regulation concerning political committees to the Congress for a period of 20 legislative days as defined in 2 U.S.C. 438 and such regulations shall be subject to approval or rejection provisions contained in that section.

Mr. McCLURE. Mr. President, this is the amendment we discussed earlier.

Mr. CANNON. This is the amendment I read earlier then.

Mr. McCLURE. The Senator is correct.

Mr. CANNON. I am willing to accept this amendment of the Senator from Idaho and am prepared to yield back my time.

Mr. McCLURE. Mr. President, I yield back my time.

Mr. CANNON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CRANSTON. Mr. President, in our lengthy deliberations on S. 926 I found it necessary to vote against one amendment which I actually strongly support, and to vote for an amendment I actually strongly oppose. Such votes are always confusing to constituents, and usually involve complicated legislative situations which seldom are well understood off the Hill.

The first of these votes occurred last Wednesday, when I joined with 55 other Senators to defeat an amendment by Senator HATFIELD which would have included primaries under the public financing provisions of S. 926.

I believe in and have long supported public financing in primaries as well as general elections. I testified for primary public financing before the Rules Committee. But I and the other major supporters of S. 926 had several weeks earlier decided not to try to include primaries in our public financing proposal because we sensed strong opposition even among Senators who might support public financing in general elections.

Thus, I believed Senator HATFIELD's amendment if adopted would have turned a majority of Senators against the bill itself—dodging all public financing, in both primaries and general elections. Since I hoped that we could at least achieve public financing in general elections, I voted against the Hatfield amendment, even though I favor the public financing in primaries.

That hope withered and died yesterday when it became obvious that not enough Republican Senators would join with the majority of Democratic supporters of the bill to give us cloture. Prior to yesterday's cloture vote, the floor leaders for the bill decided that if we failed to achieve or come close to cloture, we would move to strike title I in the hopes of salvaging the worthwhile reforms in title II. Thus, when Senator ALLEN moved to strike title I at the conclusion of the unsuccessful cloture vote, we joined to approve his motion.

Mr. President, I want to reaffirm my strong support for public finance in both primary and general elections. What happened yesterday was only a setback in our efforts to stop the corrosion of our body politic caused by our legislators' total dependence on private campaign contributions.

We will achieve public financing of Federal elections—it is only a matter of time. And when we do achieve it, both major parties will be the better for it. Most of all, our country and all its people will be the better for it.

Mr. CLARK. Mr. President, the failure of the Senate to adopt congressional public financing is indeed a disappointment. Nevertheless, I should like to take a moment to express my gratitude to a number of people without whom this effort never would have been possible.

Foremost among those is the distinguished majority leader, Senator ROBERT C. BYRD. His cooperation in scheduling S. 926 and his unswerving support throughout the filibuster demonstrate once again his outstanding leadership and his commitment to strengthening this great institution. The same can be said for distinguished majority whip, Senator CRANSTON, who was an original sponsor of S. 926 and devoted many hours of his valuable time to this endeavor.

The support and splendid cooperation of the distinguished floor manager and chairman of the Rules Committee, Senator CANNON, was crucial to this endeavor. Once again, he has demonstrated great fairness, as well as a remarkable knowledge of our campaign laws. I also wanted to extend my thanks to the distinguished minority floor manager for his courtesy and good faith, in spite of our disagreements. As always, the senior Senator from Oregon has been a pleasure to work with.

Two of the other original sponsors of S. 926 deserve special mention as well.

The senior Senator from Massachusetts, Senator KENNEDY, has been the driving force behind congressional public financing for many years—indeed the driving force behind nearly every major piece of reform legislation in the Senate. And special thanks must go to the senior Senator from Maryland, Senator MATHIAS, who returned from the SALT talks to help assist in breaking the filibuster and has stood firmly behind public financing this year, as in other years.

Unfortunately, Mr. President, yesterday's vote is being perceived in some quarters as defeat for the administration. Rather, I believe it is a defeat for the Congress and for the American people. But the administration—President Carter, Vice President MONDALE, and their staffs—have provided strong support for congressional public financing and merit our deepest thanks.

Finally, Mr. President, I would like to thank the many staff members without whose assistance this effort, as with most efforts, would have been impossible. Particularly, I would like to mention the outstanding work of Cary Parker of Senator KENNEDY's staff, Ed Hall of the Rules Committee, Tom Hart of the Democratic Policy Committee and Mary Jane Checchi of Senator ROBERT BYRD's office.

UP AMENDMENT NO. 724

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself, Mr. ALLEN, Mr. CASE, Mr. CLARK, Mr. DANFORTH, Mr. JOHNSTON, Mr. LEAHY, Mr. MATHIAS, and Mr. WALLOP, proposes an unprinted amendment No. 724.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

STATUTE OF LIMITATIONS

SEC. (a) Section 406 of the Federal Election Campaign Act of 1971 (2 U.S.C. 455) is repealed.

(b) The repeal made by subsection (a) applies with respect to the prosecution of violations occurring after the date which is three years before the date of enactment of this Act.

Mr. BROOKE. Mr. President, I offer this amendment for Mr. ALLEN, Mr. CASE, Mr. CLARK, Mr. DANFORTH, Mr. JOHNSTON, Mr. LEAHY, Mr. MATHIAS, Mr. WALLOP, and myself.

Mr. President, this amendment is simple and straightforward. It would repeal the section of the Campaign Reform Act of 1974 which reduced to 3 years from 5 years the statute of limitations on campaign law violations.

The amendment would give the Justice Department more time to investigate and to prosecute violations of the election campaign law.

And it would restore equity to this area of the law. For as former Watergate Special Prosecutor Henry Ruth maintained in 1975, when he was advocating the repeal of this provision, this provision pro-

vides special privileges for Members of Congress not enjoyed by the average citizen.

The average citizen's statute of limitations for Federal criminal and law violations is 5 years, Mr. President. And the statute of limitations for campaign law violations was 5 years prior to a change in a House-Senate conference which reduced it to 3 years.

I emphasize that this amendment would not have a retroactive effect. I believe that would be unconstitutional. It would be, of course, ex post facto. The repeal "applies with respect to the prosecution of violations occurring after the date, which is 3 years before the date of enactment of this act."

Mr. President, in the interests of justice and in equity, I urge my colleagues to support this amendment. It is sound and is an amendment which should be adopted.

I have discussed this with the distinguished ranking minority Member and the distinguished manager of the bill, and I would be very pleased to respond to any questions pertaining to this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

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

Mr. BROOKE. Yes.

Mr. CANNON. I wonder if the Senator has any evidence of any applicability of the 3-year statute that has involved a hindrance, let us say, against any prospective violator.

Mr. BROOKE. None at all.

Mr. CANNON. I hate to see us change existing law if there is no basic need for it. I might say, by way of history, that in 1974 when the Senate acted on the Federal Election Campaign Act Amendments of 1974, we did not affect the statute of limitations provision, which was prior to that time a 5-year statute.

When we went to conference with the House of Representatives, the House had a 3-year statutory limit, and in order to get a bill, that was one of the areas that the Senate gave up on, to get the House to agree, and that changed the statute of limitations to 3 years.

I do not have any particularly strong feeling one way or the other. However, the Senator seemed to indicate it might just be applied to Members of Congress. It applies to anyone who is in violation of the Federal Election Campaign Act.

Mr. BROOKE. That is correct.

Mr. CANNON. So it applies to people other than Members of Congress.

Mr. BROOKE. The Senator is absolutely right.

Mr. CANNON. It is now a 3-year statute, and I am reluctant to change it as long as there is not any demonstrated need; but I do not feel strongly enough about it to make it a major issue.

Mr. BROOKE. The Senator asked if I knew of any cases. I do not. I do question the wisdom of ever having changed it from 5 to 3 years, when all citizens of the United States have a 5-year statute of limitations for all other Federal criminal law violations. It seems to me that there is no justification for those subject to the campaign financing law to have a 3-year statute of limitations when the rest of the country has a 5-year statute of limitations. For that reason I believe it ought to be changed back to the original 5 years.

Mr. NUNN. The 5-year statute, as the Senator has it here now, commences to run as of the time of the passage of the act. In other words, after the passage of the act the statute of limitations would be a 5-year period?

Mr. BROOKE. Yes. We cannot change that and go back beyond that. That would be ex post facto, and clearly unconstitutional. Subsection (b) of my amendment states that—

> The repeal made by subsection (a) applies with respect to the prosecutions of violations occurring after the date which is three years before the date of enactment of this Act.

In 1974, it was a 3-year statute of limitation, as the Senator knows. Therefore, it could not go back beyond that.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Oregon.

Mr. HATFIELD. Mr. President, since the Senator from Massachusetts, who has not only distinguished himself here in the Senate but as a former attorney general of his State, has properly underscored the fact that this is not retroactive or ex post facto, because that would be unconstitutional—it is only post facto, is that correct?

Mr. BROOKE. Yes.

Mr. HATFIELD. I think the Senator's point, then, that here it appears on the surface that we have given ourselves, the Congress of the United States and those connected with the Federal election laws, a special status by having a 3-year statute of limitations rather than a 5-year statute, I understand the feeling of the Senator from Massachusetts that since the rest of the citizens of this country are under a 5-year statute of limitations, therefore, for the appearance factor alone, if nothing else, it would appear to me that this is an amendment worthy of consideration and of acceptance at this time on the part, at least, of the minority manager of the bill.

Mr. BROOKE. The Senator from Oregon is exactly correct. That is exactly what is involved here. I feel it would appear to the rest of the country that we are giving ourselves special privileges. We are trying to restore confidence in Congress, and I think restoring the statute of limitations to the same as holds for the rest of the country would be one way of accomplishing that.

So I am very pleased that the floor manager is willing to accept the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

The PRESIDING OFFICER. The bill is open to further amendment.

SEVERAL SENATORS. Third reading!

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CANNON. I yield back my time.

Mr. HATFIELD. I yield back my time.

Mr. CANNON. Mr. President, I have a title amendment at the desk, which I ask that the clerk report.

The PRESIDING OFFICER. That amendment will come after the passage of the bill.

Mr. CANNON. I ask unanimous consent that it be in order at this time.

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

The title amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Nevada (Mr. CANNON) proposes that the title be amended so as to read:
>
> An act to amend the Federal Election Campaign Act of 1971, and for other purposes.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 926, and I ask unanimous consent that that request be in order at this time.

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

The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—88

Allen	Bentsen	Byrd, Harry F., Jr.
Baker	Biden	Byrd, Robert C.
Bartlett	Brooke	Cannon
Bayh	Bumpers	Case
Bellmon	Burdick	

Chafee	Heinz	Packwood
Chiles	Hollings	Pearson
Church	Huddleston	Pell
Clark	Humphrey	Proxmire
Cranston	Inouye	Ribicoff
Culver	Jackson	Riegle
Curtis	Javits	Roth
Danforth	Johnston	Sarbanes
DeConcini	Kennedy	Sasser
Dole	Leahy	Schmitt
Domenici	Long	Schweiker
Durkin	Lugar	Scott
Eagleton	Magnuson	Stafford
Ford	Mathias	Stevens
Garn	Matsunaga	Stevenson
Glenn	McClure	Stone
Gravel	McGovern	Talmadge
Griffin	McIntyre	Thurmond
Hansen	Melcher	Tower
Hart	Metzenbaum	Wallop
Haskell	Morgan	Weicker
Hatch	Moynihan	Williams
Hatfield	Muskie	Young
Hathaway	Nelson	Zorinsky
Hayakawa	Nunn	

NAYS—1

Helms

NOT VOTING—11

Abourezk	Laxalt	Randolph
Anderson	McClellan	Sparkman
Eastland	Metcalf	Stennis
Goldwater	Percy	

So the bill (S. 926), as amended, was passed, as follows:

S. 926

An Act to amend the Federal Election Campaign Act of 1971, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1977".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

CHANGES IN DEFINITIONS

SEC. 101. (a) Section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) (hereafter in this Act referred to as the "Act"), is amended by striking out in paragraph (4) "the national" and inserting in lieu thereof "any political".

(b) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate or a political committee of a political party in rendering voluntary personal services on the individual's residential premises for candidate-related or political party-related activities, to the extent that the cumulative value of such activities by such individual on behalf of any candidate does not exceed $1,000 and on behalf of any political committee of a political party does not exceed $1,000 with respect to any election;";

(2) by amending subparagraph (C) to read as follows:

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign or for use by a political committee of a political party is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activities by such vendor on behalf of any candidate does not exceed $1,000, and on behalf of any political committee of a political party does not exceed $1,000 with respect to any election;";

(3) by amending subparagraph (D) to read as follows:

"(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate or a political committee of a political party, to the extent that the cumulative amount for such individual incurred with respect to such candidate does not exceed $1,000, and with respect to such political committee of a political party does not exceed $1,000 with respect to any election;";

(4) by striking out "or" at the end of subparagraph (H); and

(5) by striking out all after the semicolon in subparagraph (I) and adding the following:

"(J) funds contributed to a candidate for delegate or delegate to a State or national political convention or any unreimbursed payment for travel and subsistence expenses made by any delegate or any candidate for delegate to a convention or caucus of a political party or any payment of expenses incurred by a State or local political party in sponsoring any party meeting, caucus, or convention held for the purpose of selecting delegates to a national nominating convention of a political party;

"(K) the payment by a State or local committee of a political party of the costs of campaign materials used in connection with volunteer activities on behalf of a candidate (such as pins, bumper stickers, handbills, pamphlets, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, or other similar types of general public political advertising) if such payments are made only with funds not earmarked for a particular candidate;

"(L) the value of listing or mentioning the name of any Presidential candidate in any Federal or non-Federal candidate's campaign materials, including any listing or mentioning made on broadcasting stations, in newspapers, magazines, or other similar types of general public political advertising, where the purpose of such listing or mentioning is to promote the candidacy of such Federal or non-Federal candidate and such listing or mentioning was initiated by such Federal or non-Federal candidate; or

"(M) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as a candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;"

(c) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by amending subparagraph (D) to read as follows:

"(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate or a political committee of a political party in rendering voluntary personal services on the individual's residential premises for a candidate-related or political party-related activity, to the extent that the cumulative value of such activity by such individual on behalf of any candidate does not exceed $1,000, and on behalf of any political committee of a political party does not exceed $1,000 with respect to any election;";

(2) by amending subparagraph (E) to read as follows:

"(E) any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate or a political committee of a political party, to the extent that the cumulative amount for such individual incurred with respect to such candidate does not exceed $1,000 and with respect to such political committee of a political party does not exceed $1,000 with respect to any election;";

(3) by striking out in subparagraph (J) "the national" and inserting in lieu thereof "any political" and by striking out "or" immediately after the semicolon in such subparagraph;

(4) by adding at the end of paragraph (K) the following:

"(L) the value of listing or mentioning the name of any Presidential candidate in any Federal or non-Federal candidate's campaign materials, including any listing or mentioning made on broadcasting stations, in newspapers, magazines, or other similar types of general public political advertising, where the purpose of such listing or mentioning is to promote the candidacy of such Federal or non-Federal candidate and such listing or mentioning was initiated by such Federal or non-Federal candidate;

"(M) any costs incurred by a delegate or a candidate for delegate to a State or national political convention, or by any political committee with respect to such delegate or candidate for delegate, without regard to whether such delegate or candidate for delegate is pledged or committed to any presidential candidate, or any unreimbursed payment for travel and subsistence expenses made by any delegate or any candidate for delegate to a convention or caucus of a political party or any payment of expenses incurred by a State or local political party in sponsoring any party meeting, caucus, or convention held for the purpose of selecting delegates to a national nominating convention of a political party;

"(N) the payment by a State or local committee of a political party of the costs of campaign materials used in connection with volunteer activities on behalf of a candidate (such as pins, bumper stickers, handbills, pamphlets, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, or other similar types of general public political advertising) if such payments are made only with funds not earmarked for a particular candidate, but such costs shall be reported in accordance with the requirements of section 304(b); or

"(O) the value of transportation furnished by a person to a candidate in that person's vehicle, vessel, or aircraft other than—

"(i) transportation to a meeting, or other campaign event, at which the candidate will make an address relative to, or solicit or receive contributions to, his campaign, or

"(ii) transportation to, or in, the State or district comprising a candidate's potential constituency provided during the period beginning on the earlier of—

"(I) the first day of January of the year preceding the year in which the term for the seat to which the candidate seeks election is to expire, or

"(II) the date on which the candidate qualifies as a candidate under the provisions of section 301(b)(1), and ending on the first Tuesday after the first Monday in November of such year;".

(d) Section 301(o) of the Act (2 U.S.C. 431(o)) is amended by inserting a comma and "and as amended thereafter" immediately before the semicolon.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 102. (a) Section 302(a) of the Act (2 U.S.C. 432(a)) is amended—

(1) by striking out "chairman or" in the second sentence; and

(2) by striking out "chairman or treasurer, or their designated agents" in the third

sentence and inserting in lieu thereof "treasurer, or his designated agent".

(b) Section 302(e) of the Act (2 U.S.C. 432(e)) is amended—

(1) by inserting before the period in the first sentence in paragraph (1) "or notify the Commission that such individual will not authorize any political committee to receive contributions or make expenditures on his behalf";

(2) by striking out "a" immediately before "political committee" in paragraph (2) and inserting in lieu thereof "an authorized"; and

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

"(4) The name of each principal campaign committee of a candidate shall include the name of such candidate.".

REGISTRATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 303(b) of the Act (2 U.S.C. 433(b)) is amended—

(1) by striking out paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively;

(2) by striking out paragraphs (7) and (8) and redesignating paragraph (9) as paragraph (6);

(3) by adding "and" at the end of paragraph (6), as redesignated in paragraph (2); and

(4) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (7).

(b) Section 303(c) of the Act (2 U.S.C. 433(c)) is amended by inserting immediately before the period a comma and "except that any change in the information required by subsection (b)(5) need not be reported by a multicandidate committee, as defined in section 320(a)(4)".

(c) Section 303(e) of the Act (2 U.S.C. 433(e)) is amended by striking out "a" immediately before "political committee" and inserting in lieu thereof "an authorized".

REPORTS

SEC. 104. (a) Section 304(a) of the Act (2 U.S.C. 434(a)) is amended to read as follows:

"(a)(1) Except as otherwise provided in paragraph (2), each treasurer of a political committee registered with the Commission as provided in section 303 and each candidate for election to such office who has not designated a principal campaign committee as provided in section 302(e)(1) shall file with the Commission reports of receipts and expenditures on forms to be prescribed or approved by such Commission.

"The reports referred to in the preceding sentence shall be filed as follows:

"(A) In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in such year—

"(i) each political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf and which operates in more than one State, each multicandidate political committee or political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf with respect to which the Commission has approved a request filed as provided in paragraph (3), and each Presidential candidate who has not designated a principal campaign committee as provided in section 302(e)(1) shall file such reports monthly, as required by the Commission, except that in lieu of filing the report otherwise due in November of such year, a report shall be filed not later than the twelfth day before the date on which such election is held and shall be complete as of the twentieth day before the date of such election;

"(ii) in any other case, such reports shall be filed not later than the twelfth day before the date on which such election is held and such reports shall be complete as of the twentieth day before the date of any such election, and, in addition thereto, such reports shall be filed not later than the tenth day following the close of each calendar quarter (hereinafter referred to as 'quarterly reports'), such reports to be complete as of the close of such calendar quarter, except that if any report which must be filed prior to any such election is due during the period beginning on the fifth day following the close of any calendar quarter and ending on the fifteenth such day, the quarterly report otherwise due need not be filed;

"(iii) in addition to the reports required to be filed as provided in clauses (i) and (ii), such reports shall be filed after December 1 of such calendar year, but not later than January 31 of the following calendar year, and shall be complete as of the close of the calendar year with respect to which such reports are filed; but

"(iv) the requirement for the filing of any quarterly report as provided in clause (ii) shall be waived if the candidate or political committee files with the Commission a notification, on a form prescribed or approved by the Commission, not later than the tenth day following the close of the calendar quarter involved, stating that the aggregate amount of contributions received or expenditures made by such candidate or political committee during such calendar quarter did not, taken together, exceed $1,000.

"(B) In any other calendar year in which an individual is a candidate for Federal office, such reports shall be filed—

"(i) monthly, as required by the Commission, in the case of a multicandidate political committee or political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf with respect to which the Commission has approved a request filed as provided in paragraph (3); and

"(ii) in any other case, not later than July 10 of such calendar year and shall be complete as of June 30, and after December 31 of such calendar year, but not later than January 31 of the following calendar year, and shall be complete as of the close of the calendar year with respect to which the report is filed; but

"(iii) the requirement for the filing of the July 10 report by a candidate or his authorized committees as provided in clause (ii) shall be waived if such candidate or committees file with the Commission a notification, on a form prescribed or approved by the Commission, not later than the 10th day of July, stating that the aggregate amount of contributions received or expenditure made by such candidate or committees during the reporting period did not, taken together, exceed $5,000; and

"(iv) the requirement for the filing of the July 10 report by a political committee which is not the authorized committee of a candidate as provided in clause (ii) shall be waived if such committee files with the Commission a notification, on a form prescribed by the Commission, not later than the 10th of July, stating that the aggregate amount of contributions received or expenditures made by such political committee during the reporting period did not, taken together, exceed $1,000.

Any contribution of $1,000 or more received after the twentieth day but more than forty-eight hours before any election shall be reported within forty-eight hours after its receipt. Any contribution of $1,000 or more made by a multicandidate political committee after the twentieth day but more than forty-eight hours before any election shall be reported within forty-eight hours after it is made.

"(2) Each treasurer of a political committee authorized by a candidate to accept contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, and each candidate who designates a principal campaign committee as provided in section 302(e)(1) shall file the reports required by this section with the candidate's principal campaign committee.

"(3) Upon request by any multicandidate political committee or any political committee authorized by a Presidential candidate to accept contributions or make expenditures on his behalf, the Commission may permit such committee to file monthly reports in any calendar year instead of the reports specified in paragraphs (1)(A)(ii) and (1)(B)(ii).

"(4) Nothing in this subsection shall be construed to require any delegate or candidate for delegate to any State or national caucus or convention of a political party who is not the treasurer of a political committee or a candidate for election to Federal office to report to the Commission any gift of anything of value or any reimbursed or unreimbursed payment for travel and subsistence expenses incurred in connection with such caucus or convention.".

(b) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended by striking out "$100" in paragraphs (2), (7), (9), and (10) each place it appears and inserting in lieu thereof "$200".

(c) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) Every person (other than a political committee or candidate) who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $250 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required with respect to a person who makes a contribution in excess of $200 to a candidate or a political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the date specified in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii), whichever is appropriate. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the independent expenditure is in support of, or opposition to, the candidate; (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and (C) an identification of each person who has made a contribution of more than $200 to the person filing such statement, which was made for the purpose of furthering an independent expenditure. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the twentieth day, but more than twenty-four hours, before any election shall be reported within twenty-four hours after such independent expenditure is made.".

REQUIREMENT RELATING TO CAMPAIGN ADVERTISING

SEC. 105. Section 305(b) of the Act (2 U.S.C. 435(b)) is amended by striking out the material in quotation marks and inserting in lieu thereof the following: "A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, D.C.".

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 106. Section 306 of the Act (2 U.S.C. 436) is amended by striking out "304(a)(1)(A)(ii), 304(a)(1)(B), 304(a)(1)C)," subsection (d), and inserting in lieu thereof "304(a)(1),".

MAILING PRIVILEGES FOR STATE AND NATIONAL POLITICAL PARTY COMMITTEES

SEC. 106A. Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Any State or national political committee of a political party registered with the Federal Election Commission shall be entitled to use the same postage rates as a 'qualified nonprofit organization', as defined in former section 4452(d) of this title, so long as any such organization is entitled to use such rates for communications relating to any political or legislative subject.".

CAMPAIGN DEPOSITORIES

SEC. 107. (a) Section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)) is amended—

(1) by inserting immediately after the second sentence the following: "Any candidate who has not designated a principal campaign committee as provided in section 302(e)(1) shall maintain a single checking account and such other accounts as the candidate determines to maintain at his discretion at a depository designated by him and shall deposit any contributions received by such candidate into such account.";

(2) by inserting "or, in the case of a candidate who has not designated a principal campaign committee as provided in section 302(e)(1), in the account maintained by such candidate" immediately before the period in the fourth sentence, taking into account the amendment made in paragraph (1) of this subsection; and

(3) by inserting "or candidate" immediately after "committee" in the fifth sentence, taking into account the amendment made in paragraph (1) of this subsection, and striking out "such account," in such sentence and inserting in lieu thereof "the appropriate account described in this paragraph,".

(b) Section 308(b) of the Act (2 U.S.C. 437b(b)) is amended—

(1) by inserting "or a candidate who has not designated a principal campaign committee as provided in section 302(e)(1)" immediately after "committee" in the first sentence; and

(2) by striking out "it" in the first sentence and inserting in lieu thereof "such committee or candidate".

(c) Section 308(c) of the Act (2 U.S.C. 437 b(c)) is amended by inserting "or by such candidate if he has not designated a principal campaign committee as provided in section 302(e)(1)," immediately before "under" in the first sentence.

ENFORCEMENT

SEC. 108. Section 313(a)(5)(A) of the Act (2 U.S.C. 437g(a)(5)(A)) is amended—

(1) by striking out "30" and inserting in lieu thereof "20";

(2) by striking out "section 304(a)(1)(C)" in clause (i) and inserting in lieu thereof "section 304(a)(1)(A)"; and

(3) by striking out "10" in clause (ii) and inserting in lieu thereof "12".

ADMINISTRATIVE AND JUDICIAL PROVISIONS

SEC. 109. (a) Section 315(a)(4) of the Act (2 U.S.C. 438(a)(4)) is amended by striking out the colon and the proviso and inserting in lieu thereof a comma and "except that any information copied from such report or statement shall not be sold or utilized by any person for the purpose of soliciting contributions or for any other commercial purpose, but the names and addresses of any political committee may be utilized for the purpose of soliciting contributions from such committee;".

(b) Section 315(a) of the Act (2 U.S.C. 438(a)) is amended by adding at the end thereof the following:

"The Commission shall determine the subject of its audits under paragraph (8) (except those relating to payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954) by a random procedure in a manner to be determined by the Commission. No candidate for election or for nomination for election to the Senate or the House of Representatives shall be audited by the Commission more than once in any calendar year.

"Nothing in this subsection shall prohibit the Commission from conducting audits when it has received a complaint or where it has other information leading it to believe that such an audit is required.".

(C) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)) is amended by striking out "30" and inserting in lieu thereof "20".

STATEMENTS FILED WITH STATE OFFICERS

SEC. 110. (a) Section 316(a) of the Act (2 U.S.C. 439(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "A copy of each statement and report required to be filed with the Commission by this Act shall be filed with the Secretary of State (or the equivalent State officer), or if different, the officer of the government of each State who is charged by State law with maintaining State election campaign reports, to be designated by the Governor of that State. The Governor of each State shall notify the Commission of the official so designated."; and

(2) by inserting "statements and" immediately before "reports" each place it appears in paragraphs (1) and (2).

(b) Section 316(b) of the Act (2 U.S.C. 439(b)) is amended—

(1) by striking out "Secretary of State, or the equivalent State officer," and inserting in lieu thereof the following: "the Secertary of State (or equivalent State officer), or the officer designated";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) to preserve such reports and statements (either in the original filed form or in facsimile copy by microfilm or otherwise) for a period of seven years from the date of receipt for candidates for the Senate, for a period of five years from the date of receipt for candidates for President or Vice President, and for a period of three years from the date of receipt for candidates for the House of Representatives;"; and

(3) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) to compile and maintain a current list of all statements and reports, or parts thereof, pertaining to each candidate.".

(c) Section 316 of the Act (2 U.S.C. 439) is amended by adding at the end thereof the following new subsection:

"(c) If a report filed with the State official as provided in subsection (a)(2) relates to any candidate seeking election in another State, the duty of such State official under subsection (b)(2) to preserve such report extends only to the portion of such report which relates to candidates seeking election in the State of such State official.".

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

SEC. 111. Section 317 of the Act (2 U.S.C. 439a) is amended—

(1) by inserting "(a)" immediately before "Amounts";

(2) by inserting immediately before the period in the first sentence a comma and "including transfers without limitation to any national, State, or local committee of any political party, except that no such amounts may be converted by any person to any personal use"; and

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

"(b) For purposes of this section, 'personal use' does not include the reimbursement of expenses incurred by a Federal officeholder in connection with his official duties.".

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 112. (a) Section 320(a) of the Act (2 U.S.C. 441a(a)) is amended—

(1) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) to the political committees established and maintained by a national political party, in any calendar year, which, in the aggregate, exceeds $20,000, except that if any Presidential or Vice Presidential candidate designates the national committee of a political party as his principal campaign committee, the limitations in subparagraph (A) shall apply with respect to contributions received as such authorized committee, for which separate books of account shall be maintained; or";

(2) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B) to the political committees established and maintained by a national political party, in any calendar year, which, in the aggregate, exceed $15,000, except that if any Presidential or Vice Presidential candidate designates the national committee of a political party as his principal campaign committee, the limitations in subparagraph (A) shall apply with respect to contributions received as such authorized committee, for which separate books of account shall be maintained; or";

(3) by inserting "which aggregate at least $1,000 each with respect to at least five such candidates" in the second sentence of paragraph (4) immediately before the period; and

(4) by striking out "No" in paragraph (3) and inserting in lieu thereof "Except as otherwise provided in section 317, no".

(b) Section 320(c)(1) of the Act (2 U.S.C. 441a(c)(1)) is amended by striking out "subsection (b) and subsection (d)" and inserting in lieu thereof "subsections (b), (d), and (i) of this section and by subsection (f) of section 9004 of the Internal Revenue Code of 1954".

(c) Section 320(d) of the Act (2 U.S.C. 441a(d)) is amended—

(1) by striking out "The" in paragraph (3) and inserting in lieu thereof "Except as otherwise provided in paragraph (4), the"; and

(2) by adding at the end thereof the following:

"(4) Unless the national committee of a political party which has nominated a candidate for President of the United States designates a political committee as provided in subsection (i) within two weeks after such candidate has been nominated by such party or by September 1 of the calendar year in which the election for President is held, whichever is later, the State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of such candidate which do not exceed the greater of $20,000 or 2 cents multiplied by the voting age population of such State (as certified under subsection (e)). No such State committee or subordinate committee shall accept any transfer from any other State committee or subordinate committee in another State or from the national committee of such political party for the pur-

pose of making expenditures under this paragraph.".

(d) Section 320 of the Act (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(1)(1) Any national committee of a political party which has nominated a candidate for President of the United States may designate one political committee in each State which shall be authorized, notwithstanding any other provisions of this Act with respect to limitations on expenditures, to accept contributions and to make expenditures in connection with the general election campaign of such candidate. Such expenditures shall not exceed the greater of $20,000 or 2 cents multiplied by the voting age population of such State (as certified under subsection (e)). No contribution received by such committee pursuant to this subsection may be transferred to any political committee in another State.

"(2) If such national committee designates a political committee as provided in paragraph (1)—

"(A) the provisions of subsection (d)(4) shall not apply with respect to such national committee;

"(B) such national committee shall, upon making such designation, file a notice of such designation with the Commission and the appropriate State committee of the political party with whom such candidate is affiliated; and

"(C) the committee so designated shall file all reports required under this Act with such candidate's principal campaign committee.".

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

SEC. 113. Section 321(b) of the Act (2 U.S.C. 4416(b)) is amended—

(1) by amending paragraph (4)(C) to read as follows:

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members (including individuals who are members of the member organizations which are themselves members of such membership organization, cooperative, or corporation without capital stock) of such organization, cooperative, or corporation without capital stock.";

(2) by amending paragraph (4)(D) to read as follows:

"(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and to the families of such stockholders or personnel, except that the member corporation involved shall have approved separately and specifically the solicitation of—

"(i) its stockholders and their families by not more than one trade association in any calendar year, such approval to continue from year to year thereafter unless or until revoked by the member corporation, and

"(ii) its executive or administrative personnel and their families by not more than one trade association per corporate division in any calendar year, such approval to continue from year to year thereafter unless or until revoked by the member corporation."; and

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

"(8) The name of any separate segregated fund established pursuant to this section shall include the name of the corporation, labor organization, membership organization, cooperative, or corporation without capital stock which established such fund.".

STATUTE OF LIMITATIONS

SEC. 114. (a) Section 406 of the Federal Election Campaign Act of 1971 (2 U.S.C. 455) is repealed.

(b) The repeal made by subsection (a) applies with respect to the prosecution of violations occurring after the date which is three years before the date of enactment of this Act.

PERSONAL CAMPAIGN EXPENDITURES

SEC. 115. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) (hereinafter referred to as the "Act") is amended—

(1) by striking out "and" at the end of paragraph (p);

(2) by striking out the period at the end of paragraph (q) and inserting in lieu thereof a semicolon and "and"; and

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

"(r) 'personal expenditure' means an expenditure by a candidate from his personal funds or the personal funds of the spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of such candidate, or the spouses of such persons, including funds obtained by a loan of money to such candidate, such persons, or the spouses of such persons, or to any other person, if such candidate, such persons, or the spouses of such persons endorse or guarantee such loan in whole or in part.".

APPROPRIATE STATE DEFINED

SEC. 116. Section 316(a) of the Act (2 U.S.C. 439 (a)) is amended by inserting "or declaration" immediately after "statement".

PENALTY FOR VIOLATIONS

SEC. 117. Section 329(a) of the Act (2 U.S.C. 441j(a)) is amended by inserting "or 330(c)(2)(B)" immediately after "section 327" in the third sentence of such subsection.

DECLARATION OF INTENDED PERSONAL EXPENDITURES

SEC. 118. Title III of the Act is amended by adding at the end thereof the following new section:

"DECLARATION OF INTENDED PERSONAL EXPENDITURE

"SEC. 330. (a)(1) At least sixty days before the date of any primary election held for the nomination of individuals for election to Federal office (other than the office of President or Vice President) or at least five days after the date on which a candidate for nomination for election to such office qualifies to have his name placed on the ballot for such primary: election, whichever is later, each candidate who seeks the nomination for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for nomination for election to such office or any runoff election, personal expenditures in excess of, in the aggregate, $35,000, or

"(B) a declaration that he will not make personal expenditures in connection with his campaign for nomination for election to such Federal office or any runoff election in excess of, in the aggregate, $35,000.

"(2) Except as otherwise provided in paragraph (3), not later than seven days after the date of any runoff election held for the nomination for election of individuals to Federal office (other than the office of President or Vice President) or after the last candidate of a major party (as defined in section 9002 of the Internal Revenue Code of 1954) qualifies to have his name placed on the ballot for election to such Federal office, whichever is later, each candidate for election to such Federal office shall file with the Commission—

"(A) a declaration that he intends to make, in connection with his campaign for election to such office, personal expenditures in excess of, in the aggregate $35,000, or

"(B) a declaration that he will not make personal expenditures in connection with his campaign for election to such Federal office in excess of, in the aggregate, $35,000.

"(3) In the case of any candidate of a minor party (as defined in section 9002 of the Internal Revenue Code of 1954) who qualifies to have his name placed on the ballot for election to Federal office after the runoff election or after the last candidate of a major party so qualifies, the declaration required to be filed as provided in paragraph (2) shall be filed with the Commission at the time that the candidate of such minor party so qualifies.

"(4) Any declaration filed with the Commission as provided in this subsection may not be modified, amended, or revoked.

"(b)(1) The Commission shall transmit by wire to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a statement of the greatest amount of intended personal expenditures declared, as provided in subsection (a), by any candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.

"(2) The Commission shall transmit by mail to each candidate for nomination for election, or election, to Federal office (other than the office of President or Vice President) a copy of each declaration by any other candidate for nomination for election, or election, to such Federal office immediately after the last such candidate qualifies to have his name placed on the ballot for election.".

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 201. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following:

"(f) LEGAL AND ACCOUNTING COSTS.—In addition to any payments made under subsection (a), the eligible candidates of a political party shall be entitled to payments under section 9006 to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees or to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified expenses, if such qualified campaign expenses represent legal and accounting costs incurred by such candidates for the purpose of insuring compliance with the provisions of this chapter or of the Federal Election Campaign Act of 1971, in an amount—

"(1) equal to not more than $500,000 in the case of any eligible candidate of a major party in a Presidential election;

"(2) which, in the case of any eligible candidate of a minor party in a Presidential election, bears the same ratio to the amount allowed under paragraph (1) for a candidate of a major party as the amounts received by such candidate of a minor party under subsections (a)(2) and (a)(3) bear to the amount allowed to any candidate of a major party under subsection (a)(1); or

"(3) which, in the case of any eligible candidate of a new party in a Presidential election, bears the same ratio to the amount allowed under paragraph (1) for any candidate of a major party as the amount received by

such candidate of a new party under subsection (a)(3) bears to the amount allowed to any candidate of a major party under subsection (a)(1).".

REPORTS TO CONGRESS; REGULATIONS

SEC. 202. Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30" and inserting in lieu thereof "20".

CRIMINAL PENALTIES

SEC. 203. Section 9012 of the Internal Revenue Code of 1954 (relating to criminal penalties) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

REPORTS TO CONGRESS; REGULATIONS

SEC. 204. Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30" and inserting in lieu thereof "20".

TECHNICAL AMENDMENTS

SEC. 205. (a) Section 527(f)(3) of the Internal Revenue Code of 1954 (relating to certain separate segregated funds) is amended by striking out "section 610 of title 18" and inserting in lieu thereof "section 321 of the Federal Election Campaign Act of 1971".

(b) Section 9011(b) of the Internal Revenue Code of 1954 (relating to suits to implement chapter) is amended by striking out "contrue" and inserting in lieu thereof "construe".

EXAMINATIONS AND AUDITS; REPAYMENTS

SEC. 206. Section 9007(d) of the Internal Revenue Code of 1954 (relating to deposit of repayments) is amended by striking out "general fund of the Terasury" and inserting in lieu thereof "Presidential Election Campaign Fund".

TITLE III—MISCELLANEOUS

SEC. 301. Section 603 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "(a) Except as otherwise provided in subsection (b), whoever"; and

(2) by adding at the end thereof the following:

"(b) Subsection (a) shall not apply to the receipt of any contribution of moneys or other things of value for any political purpose by two assistants to a Senator of the United States, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or election, of any individual to be a Member of the Senate or to any other Federal office and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XLII of the Standing Rules of the United States Senate for each year during which he is designated as provided in this subsection, but the provisions of subsection (a) prohibiting the solicitation in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort or arsenal of any contribution of moneys or other thing of value for any political purpose, shall apply to such assistants.

"(c) Subsection (a) shall not apply to any contribution received in the mail and promptly transferred to any account in a campaign depository designated pursuant to section 308 of the Federal Election Campaign Act of 1971.".

VOTING SYSTEM STUDY

SEC. 302. The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program).

REVIEW OF INTERNAL REVENUE SERVICE REGULATIONS

SEC. 303. The Commissioner of Internal Revenue is directed to submit any Internal Revenue regulation concerning political committees to the Congress for a period of twenty legislative days as defined in section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 438) and such regulations shall be subject to approval or rejection provisions contained in that section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There is authorized to be appropriated to the Federal Election Commission, for the fiscal year ending September 30, 1978, the sum of $250,000 for purposes of reimbursing State offices with whom statements are filed as provided in section 316 of the Federal Election Campaign Act of 1971 for expenses incurred in carrying out their duties under such section. The Commission shall pay a reimbursement to a State office upon application made therefor by the Governor of such State and upon proof satisfactory to the Commission that the amount claimed as reimbursement represents additional costs imposed on such State as a result of such section 316.

VOTING RIGHTS ACT OF 1965 AMENDMENTS

SEC. 305. (a) Section 14(c) of the Voting Rights Act of 1965 is amended by striking paragraph (3) and inserting the following new paragraph in lieu thereof:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

(b) Section 203 of the Voting Rights Act of 1965 is amended by striking subsection (3) and inserting the following new subsection in lieu thereof:

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. Mr. President, 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 want to congratulate the manager of the bill, Mr. CANNON, for his able handling of this difficult legislation through 7 days of debate on the floor. As always, he has done a remarkable job.

I also wish to congratulate the Republican manager, Mr. HATFIELD, for his work throughout the consideration of this bill.

Commendations are in order also for the distinguished Senator from Iowa (Mr. CLARK), a member of the Committee on Rules and Administration, who was also constantly on the floor throughout the debate and who, along with Mr. CANNON, most ably argued the committee's case.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements permitted therein limited to 5 minutes each.

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

THE PROCESS AND PROSPECTS FOR MIDEAST PEACE

Mr. JAVITS. Mr. President, during the Fourth of July recess I traveled on behalf of the Foreign Relations Committee to four of the Mideast countries which are most heavily engaged in the Arab-Israel dispute. I was accompanied by my executive assistant, Albert A. Lakeland. The countries visited were: Israel, July 2–5; Jordan, July 5; Saudi Arabia, July 6–9; and Egypt, July 9–11. The purpose of my visit was to explore prospects for a Mideast peace agreement with the leaders of governments of those four countries and to convey to them my understanding of the views of the Congress and the American people on the major issues involved. I spoke with President Carter, Vice President MONDALE, Secretary of State Vance, and National Security Adviser Brzezinski before leaving on this trip and again reported my findings to them upon my return. On July 14, I made an oral report on my trip to members of the Foreign Relations Committee and some other interested Senators.

On July 22 I spoke before the Commonwealth Club of California, in San Francisco, concerning my findings and conclusions on Mideast peace boycotts.

I take this occasion to present to the Senate and the people my findings, conclusions, and recommendations on the subject of Mideast peace which are the result of my trip.

In Israel, I met with Prime Minister Begin, Foreign Minister Dayan, Defense Minister Weizman, Finance Minister Erlich, Agriculture Minister Sharon, Tel-Aviv Mayor Lahat, Jerusalem Mayor Kolleck and Director of Military Intelligence Major General Gazit. In addition, I met with the following leaders of the opposition: Former Prime Minister Yitzhak Rabin, former Defense Minister Shimon Peres, former Deputy Prime Minister and Foreign Minister Yigal Allon and Ambassador Abba Eban, as well as the following leaders of the Democratic Movement for Change: Prof. Yigal Yadin, former Army Chief of Staff, Prof. Ammon Rubenstein, and Gen. Sharon Yariv. I also had very valuable discussions with the U.S. Ambassador Samuel Lewis and members of his staff, and officials of the Israeli Ministry of Foreign Affairs, and others.

During my brief visit to Jordan, I had an excellent conversation with His Majesty King Hussein and additional very informative conversations with Crown Prince Hassan and Prime Minister Badran, and with our Ambassador Thomas Pickering.

My visit to Saudi Arabia was in response to an invitation of the Government of Saudi Arabia conveyed to me by

Ambassador to the United States Alirizah. In Jidda I had meetings with His Majesty King Khalid, Crown Prince Fahd, Foreign Minister Prince Saud, Finance Minister Aba al-Khayl, Petroleum Minister Yamani, Central Bank Governor Quraish, Minister of Industry and Electricity Al-Qusaibi, Prince Turki al-Faisal, and a number of other senior officials of the Government of Saudi Arabia as well as several leading Saudi businessmen. While in Jidda, I was a house guest of Ambassador and Mrs. John West, whose gracious hospitality and wise counsel were much appreciated. Ambassador West arranged for me to meet with a number of the leaders of the American business community resident in Saudi Arabia. On July 8, I made a day trip to Dhahran for a most instructive briefing and tour of the petroleum facilities by Aramco Chairman Frank Jungers and his colleague. I also received briefings from our Consul General Bushnell and General Cathey, chief of the U.S. military training mission in Saudi Arabia.

In Egypt I met with President Sadat, Speaker of the Peoples' Assembly Sayed Marei, Finance Minister Salah Hamid and Minister of Economy and Economic Cooperation Hamid al-Sayeh. I also met with the Egyptian Ambassadors to the United States and to the United Nations who both happened to be in Egypt at the time of my visit. In addition, I received very instructive briefings from U.S. Ambassador Eilts and members of his staff.

Since my return, Prime Minister Begin has visited Washington and, in my judgment, has made a positive contribution to peace through his suggestions respecting the peace process and through his dignified and high-minded demeanor. The respective positions of Israel and the United States on the peace process have now been stated. Taken together these positions provide a lead-in to the reconvening of the Geneva Conference in my judgment.

It is now the turn of the Arab governments to state their positions and make their suggestions for reconvening the Geneva Conference in a way which facilitates that step. It is also time for them to state their willingness to negotiate all the issues without preconditions, as Prime Minister Begin has done on Israel's behalf.

Secretary Vance has returned to the Mideast to seek concrete agreements from the parties which will hopefully lay the basis for the reconvening of Geneva and the achievement of a peace settlement between Israel and its Arab neighbors.

During my recent visit to Israel, Jordan, Saudi Arabia and Egypt, on behalf of the Senate Foreign Relations Committee, I found broad agreement that the time is right to seek a comprehensive Mideast peace agreement and that a reconvened Geneva Conference is the proper forum.

Serious substantive differences continue to divide the parties. But I sense a new inclination in the Arab States to pursue more constructive regional and national goals than the tattered objective of destroying Israel and driving the Israelis into the sea. The burden of four wars, excessive defense budgets and large armies weighs heavily upon Egypt, Jordan, and Syria—and upon Israel, too. Moreover, I find the stirrings of a sense of the possibilities in the Arab countries of a new Arab renaissance based on oil wealth, which would transform the Mideast from a region of poverty and despair for its peoples into a center of productivity and wealth. Some Arab leaders are beginning even to understand the enormous contribution Israel could make to regional prosperity, through its technological and managerial skills, if peace can be found.

The next 18 months could be crucial to the prospects for Mideast peace. I am neither optimistic nor pessimistic about the chances. I do believe that it is doable and that now is the time to try. Moreover, it is clear that the United States must take the lead in bringing the parties together.

President Carter has defined the three key elements of a peace settlement as being: First, Israeli withdrawal with border adjustments to its pre-June 1967 borders; second, the creation of a Palestinian "entity or homeland," "preferably" in association with Jordan, and third, the establishment of a real peace including diplomatic recognition, trade, travel et cetera. I have already made public my own critique of this formula, but President Carter has opened up the issues dramatically and vividly and brought the Arab-Israel conflict to the center of world attention and given it a high priority for a solution. Hence, I wish to focus my remarks upon where I think the United States should go from here, in discharging its great responsibility as the intermediary for peace.

First, careful attention must be given to the peace process itself, for if the process is defective substance may never even get its chance. In this regard, the focus must be upon reconvening the Geneva Conference this year. A great deal of delicate and skillful preparatory work must be completed in the interim. It would be tragic for the Geneva Conference to break down over procedural questions even before the substantive negotiations begin. But, that is a real danger if there is no agreement beforehand on such crucial questions as agenda and participants.

I am a lawyer by profession and in the law, you learn quickly that procedure affects substance, just as substance affects procedure. This adage could be particularly true in respect to the reconvening of the Geneva Conference where the threshold procedural question of the nature of Palestinian participation must be faced.

Israel will not sit down with the PLO, and the United States remains committed to its pledge not to deal with the PLO so long as it refuses to accept the existence of Israel as a nation—and that continues to be the PLO position. For their part, the Arab States are at least nominally still bound by their decision at the Rabat Conference to recognize the PLO as the "sole" legitimate representative of the Palestinian people—thereby barring Jordan from negotiating about the West Bank. Therefore, the procedural question of who represents the Palestinians is closely related to the substantive issue postulated by President Carter of the creation of a Palestinian homeland or entity, preferably in association with Jordan. And, of course, the nature and scope of the proposed Palestinian entity is central to the question of Israeli security, withdrawal and borders.

In addition to the procedural question of who shall be the participants, there is the crucial procedural question of what shall be the agenda and in what order the agenda questions will be negotiated. President Carter's three point proposal is one obvious basis for drawing the agenda, but difficulties are bound to arise in the degree to which the Carter proposal differs from the delicately worded text of U.N. resolutions 242 and 338—which make no mention of a Palestinian homeland or entity.

Moreover, it has become clear over the past 2 years that the still evolving situation in Lebanon is bound to have a direct bearing on what can and cannot be agreed upon at Geneva.

I draw attention to these more obvious procedural difficulties not because I think they are insurmountable. On the contrary, my discussions with the leaders of Israel, Jordan, Saudi Arabia, and Egypt have given me reason to believe that there may be now a common determination to surmount procedural and technical obstacles so as to facilitate a serious effort to achieve a substantive accord. But, the procedural preliminaries must be considered very carefully by the United States precisely because of the prevalent assumption among the Mideast parties that the U.S. influence will be most important on these nettlesome issues.

It is for this reason that I have proposed that the United States take the lead in organizing a Geneva preparatory working group, under Secretary of State Vance, to prepare the ground for Geneva. And Prime Minister Begin's proposals made on his visit in Washington, for preparatory procedure leading to Geneva fit in with this idea. Such a working group would necessarily entail the participation of Arab and Israeli diplomats or officials, indeed the Mideast parties themselves seem to expect the U.S. intermediation is vital to find answers to the procedural issues along the road to Geneva.

My discussions in the Mideast lead me to conclude that there has been a significant shift of emphasis by the parties with respect to the major substantive issues at stake. On the borders question I found a reduced emphasis on the question of Sinai and the Golan Heights. Differences remain but there seems to be an assumption that answers can be found to satisfy both sides respecting the Sinai and the Golan Heights, perhaps through an extension to the techniques employed in the second Sinai disengagement agreement.

The focus of contention with respect to borders has shifted quite palpably to the West Bank.

In Israel, I found virtual unanimity among opposition leaders as well as the government that Israel's security is linked inextricably to the West Bank territory it has administered since 1967. Almost to a man, Israel is passionately convinced that its security border must extend to the Jordan River. However, not all Israelis base this on Prime Minister Begin's assertion that the West Bank is "liberated" territory—ancient Judea and Samaria.

In Israel, I found that estimates of Israel's requirement for an on-the-spot security presence are perceived in part as a function of two other questions. First, I found a greater proclivity to some withdrawal if the areas left are ultimately to be placed under some Jordanian sovereignty—and, parenthetically, this coupled with an adamant refusal to withdraw to any extent to permit the establishment of a PLO state. Second, I found also a greater proclicity to some withdrawal in return for a full peace of the nature described by President Carter in his address at Clinton, Mass.

The nature of the peace which is to be sought at Geneva is also at the center of attention in Israel and among its Arab neighbors, I found on my trip. Although expressed in different ways, I found a somewhat similar ambivalence in both Israel and the Arab countries with respect to the nature of peace. On both sides there is a residual skepticism that normalization in the full sense is a realistic short-term possibility, given the years of warfare and hatred and continuing suspicions and mistrust. Nonetheless, an undeniable sense of excitement comes to the surface in any prolonged discussion of the implications of a real peace of the nature postulated by President Carter. Old dreams and exciting new possibilities flowing from relief from the burdens of war and hatred are not very far beneath the surface.

In the Arab lands, particularly Saudi Arabia, I found the beginnings of a new Arab self-image which holds promise for the future. There is a growing awareness, based upon the bounty of their oil reserves, that there is a way out of the poverty and stagnation of life which has characterized the Mideast in recent centuries. The new vision includes not only the petrodollars that are being earned from crude oil deposits but also the possibility of using those dollars to buy technology and create an infrastructure which could bring on an economic miracle of lasting growth and prosperity for the entire Mideast region.

Among those who have been infused with this vision I found the greatest openness to President Carter's call for a real peace. In fact, there are some among the Arab leaders who think privately that the signing of a juridical peace could set off a virtual stampede of normalization and regional cooperation and economic intercourse. This view, while as yet a minority view, believes that peace would develop an irresistible momentum of its own.

The majority view, particularly in the Arab lands, however, is more pessimistic and resistant to the call for a peace of full dimensions, and this will be a sticking point of major proportions at Geneva. I believe that President Carter's insistent call for a full peace now is his most brilliant and innovative contribution to the Mideast peace process. It holds great possibilities in my judgment and, while visionary, I do not regard it as being unrealistic. Consequently, I have urged the President to continue unremittingly his emphasis on normalization as the key element of the Mideast peace equation.

Perhaps the most contentious and intractable element in President Carter's three point framework for Mideast peace is his call for the establishment of a Palestinian entity. Israel is adamantly opposed to the creation of a third sovereignty between itself and the Kingdom of Jordan. And, security is the bottom line of Israel's opposition to an independent Palestinian state in the West Bank and Gaza strip. Actually, I failed to find any great enthusiasm even in the Arab countries for an independent PLO state on the West Bank. While many Arabs will argue that stability in the Mideast cannot be achieved until the Palestinians feel they have achieved political recognition as a people, I found few who contended that this means as a corollary an independent PLO state on the West Bank or that such a state would contribute, per se, to peace and stability in the region. And, I found that Arab concerns in this regard extended beyond Israel to their own security and stability. For this reason, I found an increasing disposition on the part of the Arab governments to move away from the Rabat designation of the PLO as the sole representative of the Palestinians, and toward an increasing awareness that Jordan is an indispensable element in the establishment of any Palestinian entity on any part of the West Bank.

It is clear that Israel today places a much greater emphasis on its own security interests in the West Bank than it did in the 1949–67 period when the area was under Jordan. I discern four reasons why Israel now considers the West Bank an area vital to its security interest.

First. The Arab military forces are much larger, more capable and better equipped today than they were in the period through 1949. Israel's experience in the 1973 Yom Kippur war has taught it not to underestimate the destructive power and fighting capabilities of the Arab armies which have proven capable also of close coordination of attack.

Second. Israel has learned a costly lesson in the surprise attack, which occurred in October 1973 when it took titanic efforts to reverse the tide of battle created by the clandestinely planned and coordinated surprise attack of Egypt and Syria. Space has become a vital element in Israel's defensive battle plans. Moreover, the narrow borders of the 1967 lines render Israel exceptionally vulnerable in two respects: the 1967 lines lie at the very jugular of Israel's urban population centers; the occupation of key areas in a surprise attack, and particularly the possibility that Israel could be cut in two by a quick thrust has political and psychological significance transcending the purely military and tactical significance of such developments.

Third. The religious civil war which has torn Lebanon asunder and which was made militarily "live" what was once Israel's only tranquil border, all as a result of PLO aggressiveness, has steeled Israel's determination not to permit any analogous situation developing in the West Bank.

Fourth. The continued hardline of the PLO, in deed as well as word, contributes importantly to the unacceptability to Israel of an independent PLO state on the West Bank. Israelis are particularly resentful, and justifiably so, at voiced criticisms of alleged Israeli hardlining, in contrast to persistent efforts to paint the PLO as privately "moderate" and "reasonable"—despite the PLO's continuing violent lawlessness in Lebanon and its refusal even at its Cairo National Council meeting in March of this very year to moderate one bit its demand for the dismemberment of Israel as a Jewish state.

If the issue of the West Bank as a whole has become more intractable, there seems to be some lessening of the contentiousness of the issue of Jerusalem. By implication, and only by implication, I believe that there is an assumption now that the status of Jerusalem in the context of an overall peace is an issue which is solvable in consonance with the principles that it must be a united city with access guaranteed to all parties and with the respective Jewish, Moslem, and Christian holy places under a Vatican-like autonomy of the respective faiths.

The still unresolved "settlement" in Lebanon, following the vicious communal civil war there, is an important new factor in an Arab-Israel overall peace agreement. Moreover, it is a factor which has not found identification in either the U.N. resolutions—242 and 338—or in the principles stated by President Carter. In my judgment, until there is an agreed understanding concerning Lebanon, it will be much more difficult to resolve the issues of the Golan Heights and West Bank.

In Jordan and Saudi Arabia I found a growing appreciation of the economic dimension of a Mideast peace settlement. For a territorial settlement per se, even including the establishment of a West Bank Palestinian entity, will not solve the Palestinian refugee problem, since it is not possible that the 600,000 odd Palestinian refugees outside the West Bank and Gaza could be absorbed into those already crowded areas. But, the economic dimension of peace goes beyond the mere "negative" issue of settling the Palestinian refugees lest they remain as a continuing impediment to peace and stability. Rather, there is a positive element to the peace dimension which could, over time, make a crucial difference as to its quality and permanence. For the first time in centuries the elements necessary for a lasting Mideast economic development boom are coming into being. First, there is the accumulation of vast

amounts of capital in the Arab oil states and the beginnings of the creation of a petro-based industrial structure there. Second, there is a growing realization that development and prosperity must be regionwide and can benefit enormously from a marrying of Israeli technological and managerial capacities with Arab capital and infrastructure.

The time has come for a quiet diligence to be the hallmark of U.S. Mideast diplomacy. The United States, as the preferred intermediary of all the parties, bears a great and historic repsonsibility. I shall do my utmost to assist President Carter in his high and noble goal of seeking to achieve a just and lasting peace in the Mideast at this time. The high endeavor has been launched. It cannot be abandoned or the duties shirked until it has reached its port of destination—a real Mideast peace.

THE PRESIDENT'S MARIHUANA PROPOSAL

Mr. JAVITS. Mr. President, it is most gratifying that President Carter has publicly indicated his strong support of legislation to decriminalize the possession and use of small amounts of marihuana. In transmitting to Congress his message on drug abuse, the President has made a strong commitment to a more effective Federal role in drug abuse prevention, treatment and control. On the question of marihuana penalties, he has adopted a forthright and sensible approach to a problem which has assumed enormous national proportions in recent years.

In every Congress since the 92d, Congressman EDWARD KOCH of New York and I have sponsored legislation strongly and unanimously recommended by the National Commission on Marihuana and Drug Abuse to decriminalize the private possession and private use of small amounts of marihuana.

Our current bill in the Senate is S. 601. It is also introduced in the House. It has now been 5 years since the National Commission published its massive study on the extent and nature of marihuana use in our society, and the medical, legal and social problems associated with such use. I, with three of my congressional colleagues—former Senator Harold E. Hughes, and Congressmen PAUL ROGERS and TIM LEE CARTER—served on that body with a distinguished group of educators, lawyers, psychiatrists, law enforcement officials and others. Its work and recommendations were widely acclaimed and endorsed by commentators throughout the world.

The approach the President has adopted is identical to that which we proposed in S. 601 and H.R. 432, bills which would decriminalize the personal possession and use, and not-for-profit transfer of up to 1 ounce of marihuana and substitute in lieu thereof a civil fine not exceeding $100. This would be enforceable with a citation rather than an arrest. Current Federal law provides a penalty of up to 1 year in jail for this offense. The civil fine approach represents a variation—which I accept—from our original bills and the Commission's specific recommendation which proposed straight decriminalization for possession of 3 ounces of marihuana.

In a letter dated February 2, 1977 Senator CRANSTON, Congressman KOCH and I wrote to President Carter discussing the need for this legislation and the reasons why its enactment is so important. Now that the President has made his decision on this issue, I ask unanimous consent that a copy of the letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1).

Mr. JAVITS. Mr. President, criminalization of marihuana has failed. It is now time for Congress to join with the President and our State governments to readjust our priorities and eliminate the profound inequity which results from random enforcement of these laws when the surveys show that 35 million Americans have tried marihuana at least once, and 13 million Americans are reportedly using the drug today.

The number of Americans experimenting with and using marihuana, and getting arrested for the same, continues to increase, and so does the number of criminal justice system professionals who are engaged in detecting, prosecuting, defending, counseling, judging, and punishing alleged offenders. This in spite of the fact that the National Commission found that in excess of 90 percent of all marihuana arrests are for possession and use of minimal amounts.

Consequently, the cost—in money and in diversion from other criminal law enforcement—of law enforcement involving marihuana is skyrocketing. According to the FBI, more than 2 million persons have been arrested for marihuana offenses in this country since 1970. We continue to reap more than 400,000 marihuana arrests per year, and this distorted priority has cost us the equivalent of billions of dollars in scarce law enforcement resources which are so desperately needed in programs to reduce violent crime and hard drug use.

Mr. President, for 5 years now, I have sponsored, with other colleagues in the House and Senate, currently with Senator CRANSTON here and, in the other body, with Congressman KOCH of New York, legislation to do exactly what the President is recommending.

In the past 5 years, we have already seen important changes in public attitudes and public law on this subject. This is due in large measure to the extraordinary job done by the National Organization for the Reform of Marijuana Laws, and its talented director, Keith Stroup, and the work of Dr. Thomas Bryant, formerly President of the Drug Abuse Council, Dr. Robert Dupont, head of the National Institute for Drug Abuse and many others including Dr. Peter Bourne, the President's senior adviser on health and drug matters. Nine States have enacted decriminalization/civil fine statutes—Oregon, Ohio, Alaska, California, Colorado, Minnesota, Maine, South Dakota, and my very own State of New York—and such legislation will be considered in at least 30 State legislatures.

In addition, many recent public opinion polls show consistent majorities for decriminalization. Without doubt, the case for reform has become clearer and more broadly accepted.

Mr. President, I believe very strongly that we must preserve a governmental policy of discouraging the use of marihuana. Our bill seeks to achieve that objective by serving several distinct and vital public interests while recognizing the social and historical contexts in which public policy toward marihuana has developed. We must act in this Congress to move the law more closely into accord with the current body of knowledge about this drug.

I commend President Carter's strong leadership on this controversial issue and urge the Senate to act affirmatively without delay.

Mr. President, there are bills in the House and the Senate to carry out the President's recommendation. I hope very much that they will have early attention from both parties.

EXHIBIT 1

WASHINGTON, D.C., *February 2, 1977.*

Hon. JIMMY CARTER,
President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We appreciate and applaud the fact that you have expressed your concern about our present Federal laws on the subject of criminal penalties for marihuana possession offenses. We urge your personal support for the decriminalization of Federal marihuana laws and request that, in the course of your Administration's review of existing policy, every consideration be given to early action for reform of these laws and to the development of a comprehensive national policy on overall drug abuse in the United States.

We have long been concerned about the fundamental unfairness which underlies Federal law on the subject of criminal penalties for marihuana possession offenses. We likewise view as unwise and ill-conceived laws which cause the diversion of the scarce law enforcement resources required by the more than 400,000 Federal, state and local arrests every year for the possession of small amounts of marihuana. We are accordingly reintroducing legislation tomorrow providing that the possession and not for profit transfer of one ounce or less of marihuana would be punishable at the Federal level by a civil fine of not more than $100. Commercial sale of the drug for profit would remain a criminal offense.

We realize that this is an issue that you will want to study carefully. With this in mind, we have introduced this bill as a starting point for discussion. We hope to work closely with you and the Attorney General—and those in your Administration whom you designate—in reviewing it and formulating meaningful reforms to these outmoded laws.

According to an April, 1976 survey conducted by the National Institute for Drug Abuse 13 million Americans or 8% of the adult population were using marihuana and 35 million or 21.3% have tried it at least once. FBI statistics show that more than 2 million persons have been arrested for marihuana offenses in this country since 1970. A statistical analysis of State marihuana arrests by the National Commission on Marihuana and Drug Abuse uncovered the unsettling fact that ninety-three percent were for possession—not sale—and two-thirds of

these involved the quantity of one ounce or less. Only seven per cent of the arrests were against the commercial trafficker.

Public attitudes towards marihuana smoking have changed dramatically over the past few years. Eight states have enacted decriminalization statutes—including California—and the issue will be considered this year in forty state legislatures. Where stiff jail penalties were once demanded for someone caught with a small amount of marihuana, many public opinion polls confirm that civil fines are now favored by a majority of our citizens, and fines rather than imprisonment are routine in almost all jurisdictions today.

Mr. President, we believe that marihuana policy should be a primary responsibility of state governments, but it is difficult for states to change their laws so long as the federal statute remains unchanged. Thus, although the vast majority of arrests and convictions are non-federal, federal action would serve as a model for state reform. Moreover, the decriminalization of marihuana would remove one unnecessary governmental incursion into individual freedom. The value of the criminal sanction in a society rests on a foundation of fairness and practicality. Penalties for possession of small amounts of marihuana do not meet that test.

With best wishes,

Sincerely,

JACOB K. JAVITS,
ALAN CRANSTON,
EDWARD I. KOCH.

Mr. CRANSTON. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. CRANSTON. I would like to join in the statement of the Senator from New York in regard to the President's pronouncement and in regard to the legislation and the need for it. It is my privilege to be a principal sponsor with the Senator from New York of that legislation. I hope that we shall now be able to move it and move it soon.

Mr. JAVITS. I thank my colleague.

I point out that the most urgent need for this is by the police themselves, who feel that there is an enormous amount of money and resource which is being diverted for the purpose of catching small users or possessors of tiny amounts of marihuana to no purpose whatever. It is a great diversion of the criminal enforcement activity in Federal, State, and local establishments.

Mr. CRANSTON. Yes; we have now had experience in California where we have a law quite close to the Federal statute that we are proposing. That experience has been very, very satisfactory. It has proven, I think, the case for the legislation that we have introduced together.

Mr. JAVITS. I thank my colleague.

THE DEATH OF ARCHBISHOP MAKARIOS

Mr. SARBANES. Mr. President, I rise to express my deep sorrow, which I know is shared by the American people and by my colleagues, at the death of His Beatitude Archbishop Makarios. His passing is a tragic loss for freedom-loving people everywhere.

As the champion of independence for the people of Cyprus, he brought about the birth of that independent island republic. Since then he has served as the only President of the Republic of Cyprus repeatedly chosen by the people over the past 18 years.

As President he provided a leadership which commanded respect throughout the world. A man of great intelligence, strong principle, and profound faith, he asserted the democratic values which we all share.

He stood for the proposition that a commitment to justice and freedom could shape and guide our world. In a period of nuclear power, he relied on eminent personal qualities to persuade and to lead. In a world where countries are often measured by sheer power, he led by a combination of religious and political strengths. And in a world of superpowers, he led a country of less than 700,000 people in a manner which brought him a role of world leadership.

His rare and extraordinary qualities will be deeply missed. My sympathies go to all those in Cyprus and elsewhere who share this enormous loss.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. SARBANES. I yield.

Mr. JAVITS. I knew the archibishop very well. I was one of the first Members of either body to greet him when he came here to preach on the doctrine of enosis. I considered him a great patriot, a very inspiring and distinguished leader and thinker. I am deeply sorry that, within his lifetime, he could not see the fruition of his dream, which was a peaceful and an independent Cyprus. I join the Senator in paying respect to this very outstanding personality.

Mr. SARBANES. Mr. President, I ask unanimous consent that other statements by Senators on the death of Archbishop Makarios may be printed together in the RECORD.

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

DEATH OF ARCHBISHOP MAKARIOS

Mr. PELL. Mr. President, the people of the Republic of Cyprus have suffered a great loss in the death of their beloved leader, His Beatitude, Archbishop Makarios, President of Cyprus.

It is difficult for us in the United States to comprehend the unique position that Archbishop Makarios held in the political, religious, and cultural life of his country. He was the deeply respected—and, indeed, awesome—political leader of his nation and, at the same time, the revered spiritual leader of the Cypriot people. In both of these capacities, he had earned and sustained the deep love, trust and affection of the Cypriot people.

Archbishop Makarios drew upon these deep-rooted ties to the people of Cyprus to sustain and lead Cyprus through the events that engulfed the island in the years following the end of World War II. Through the series of crises that erupted in Cyprus through the past 30 years, Archbishop Makarios has been a tower of strength and a vital stabilizing force.

When he agreed in 1960 to serve as the first President of Cyprus, Archbishop Makarios assumed one of the most difficult, trying, and personally dangerous leadership positions in the world. He met the challenges of that position as no other Cypriot could.

It is a great tragedy that at the death of Archbishop Makarios, the island of Cyprus remains divided, a major portion of the island still occupied by Turkish Forces as a result of the Turkish invasion of July 1974.

I had the pleasure of meeting with Archbishop Makarios in Cyprus in August of 1975, a little more than a year after the Turkish invasion, and I know from our conversation that no objective was dearer to the heart of the archbishop than the peaceful reunification of his beloved Cyprus.

With the death of Archbishop Makarios, a new chapter begins in the history of Cyprus. I extend my sympathy to the Cypriot people on the loss of their beloved leader. I pray that the Cypriot people will soon see the day when the archbishop's dream of a peaceful and reunited Cyprus will be realized.

A TRIBUTE TO THE LATE PRESIDENT MAKARIOS

Mr. KENNEDY. Mr. President, the international community mourns today the loss of a great and respected world leader, Archbishop Makarios, the President of Cyprus.

President Makarios was not only the towering leader of his people during their struggle for independence, but since then he has also been their symbol of strength in adversity, and their source of courage and hope in their constant struggle to preserve unity and peace on Cyprus.

During the last 3 years, as the island of Cyprus has stood divided and occupied, the Cypriot refugees have looked to the leadership of President Makarios to bring a just and peaceful settlement to the human and political tragedy experienced by all who live there. And those in the international community, who have sought to help bring peace and relief to Cyprus, have respected the efforts of President Makarios to lead his people to a negotiated settlement that would normalize the lives of the Cypriot people and strengthen peace and stability throughout the eastern Mediterranean.

As an international statesman and leader, President Makarios was received by countless nations all over the world. Especially in the Third World, he was deeply respected for his commitment and leadership in the struggle for self-determination and human rights, and for peace and justice throughout the world.

During President Makarios' first state visit to the United States in 1962, President Kennedy saluted the Cypriot leader for the long and difficult fight he conducted for his country's independence, involving the most sensitive interests, involving his own persistent, courageous and far-seeing view of his country's future.

In turn, President Makarios expressed to President Kennedy the view that guided his actions over the many years of his leadership on Cyprus. President Makarios said that—

All people who truly love peace must sincerely work closely together if peace is to be secured. Countries should be united not only through believing in the same ideals, but by the consciousness of the common effort and the awareness of working together for the preservation of these ideals.

Mr. President, I want to express my deep personal condolences to the people of Cyprus, who have truly lost a great national leader.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

Under authority of the order of August 2, 1977, a message from the House of Representatives was received on August 2, during the recess of the Senate, stating that the Speaker had signed the following enrolled bill:

S. 826. An Act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

The enrolled bill was signed today, August 3, 1977, by the President pro tempore.

At 9:42 a.m., today, a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 31, 32, 59, 68, 76, 79, and 80 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 3, 12, 13, 28, 45, 66, 72, and 82 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

At 11:50 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed without amendment the following bill:

S. 1765. An act for the relief of the Federal Life and Casualty Company of Battle Creek, Michigan.

The Speaker has appointed as members of the National Commission on Neighborhoods, Mrs. BURKE of California and Mr. PRITCHARD.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 1934. An act for the relief of Doctor Lawrence C. B. Chan;

H.R. 1939. An act for the relief of Meda Abilay Florin;

H.R. 2758. An act for the relief of Carmen Prudence Hernandez;

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandez;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 5555. An act for the relief of Adelida Rea Berry; and

H.R. 5928. An act for the relief of Miss Coralia Raposo.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-1768. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on one rescission and three deferrals of U.S. Department of Agriculture, Forest Service, budget authority that should have been, but were not, reported to the Congress; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Agriculture.

EC-1769. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of six construction projects to be undertaken by the Air Force Reserve (with accompanying papers); to the Committee on Armed Services.

EC-1770. A letter from the Secretary of Commerce transmitting, pursuant to law, a report on the Administration of the Marine Mammal Protection Act of 1972 for the period of April 1, 1976, through March 31, 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1771. A letter from the Chairman of the National Transportation Safety Board transmitting a draft of proposed legislation to provide an authorization for the programs of the National Transportation Safety Board for fiscal years 1979 and 1980 (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC-1772. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with FMC Corp., Santa Clara, Calif., for a research project entitled "Multi-purpose Test Chassis" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1773. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Mathtech, Inc., Princeton, N.J., for a research project entitled "Analysis and Development of Operating Guidelines for Dozer/Dragline and Loader/Truck/Dragline Tandem Mining Systems" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1774. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Ingersoll-Rand Research, Inc., Princeton, N.J., for a research project entitled "Development of Mechanical Anchor Bolter Module for Low Coal" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1775. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Iowa State University of Science and Technology, Ames, Iowa, for a research project entitled "Geology of Deep Coal Beds in Iowa" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1776. A letter from the Secretary of the Interior transmitting, pursuant to law, notice that Mr. Floyd W. Fagg, Government Comptroller for Guam, has resigned effective July 20, 1977; to the Committee on Energy and Natural Resources

EC-1777. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with the Bendix Corp., Englewood Colo., for a research project entitled "One-Inch Flexible Drill for Resin Bolter Module" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1778. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with the Bendix Corp., Englewood Colo., for a research project entitled "Development of Mechanical Anchor Bolter Module for Low Coal" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1779. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Anschutz Coal Corp., Denver, Colo., for a research project entitled "Demonstration of Longwall Mining in a Steeply Dipping Coal System" (with accompanying papers); to the Committee on Energy and Natural Resources.

E-1780. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract with Rapidex, Inc., Gloucester, Mass., for a research project entitled "Experimental Study of the Self-Advancing Miner for Coal" (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1781. A letter from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the fourth report on resource recovery and the reduction of solid waste generation reviewing the current status of resource recovery and waste reduction in the United States (with an accompanying report); to the Committee on Environment and Public Works.

EC-1782. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a report of Building Project Survey for Knoxville, Tenn. (with accompanying papers); to the Committee on Environment and Public Works.

EC-1783. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to limit the period during which a State may file a claim for Federal reimbursement under certain titles of the Social Security Act (with accompanying papers); to the Committee on Finance.

EC-1784. A letter from the Secretary of the Treasury transmitting, pursuant to law, a report entitled "Antirecession Fiscal Assistance to State and Local Governments" containing information on the amounts which have been paid to each State and local unit of government (with an accompanying report); to the Committee on Finance.

EC-1785. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting, pursuant to law, a report of study of methods through which U.S. narcotics control programs in foreign countries might be placed under the auspices of international or regional organizations (with an accompanying report); to the Committee on Foreign Relations.

EC-1786. A letter from the Chairman of the Commission on Security and Cooperation in Europe transmitting, pursuant to law, a report entitled "Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations for Two Years After Helsinki" (with an accompanying report); to the Committee on Foreign Relations.

EC-1787. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Legislation Needed to Improve Program for Reducing Erroneous Welfare Payments" (HRD-76-

164) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1788. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Department of Agriculture Should Be Authorized to Charge for Cotton Classing and Tobacco Grading Services" (CED-77-105) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1789. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Financial Disclosure for High-Level Executive Officials: the Current System and the New Commitment" (FPCD-77-59) (with an accompanying report) to the Committee on Governmental Affairs.

EC-1790. A letter from the Director of Office of Management and Budget, Executive Office of the President, President's Reorganization Project, transmitting a recommendation of the consolidation of 26 existing consumer units which, as presently constituted, would duplicate the functions of the new consumer agency; to the Committee on Government Affairs

EC-1791. A communication from the President of the United States transmitting, pursuant to law, the second annual report of executive branch activities to comply with the Privacy Act of 1974 (with an accompanying report); to the Committee on Governmental Affairs.

EC-1792. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document concerning domestic mining and mineral and mineral fuel conservation fellowships which has been transmitting to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC-1793. A letter from the Acting Director of the National Institute of Education transmitting, pursuant to law, a report describing the compensatory services provided by a cross-section of the 14,000 school districts which receive title I funds (with an accompanying report); to the Committee on Human Resources.

EC-1794. A letter from the Director of the National Science Foundation transmitting, pursuant to law, the analytical section of the report entitled "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, Fiscal Year 1975" (with an accompanying report); to the Committee on Human Resources.

EC-1795. A letter from the Inspector General of the Department of Health, Education, and Welfare transmitting, pursuant to law, the first quarterly report covering the activities of the Office of Inspector General for the period April 1 to June 30, 1977 (with an accompanying report); to the Committee on Human Resources.

EC-1796. A letter from the Principal Deputy Assistant Secretary of Defense, MRA & L, transmitting, pursuant to law, the report of Department of Defense Procurement from Small and Other Business Firms for October 1976 to February 1977 (with an accompanying report); to the Select Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Without amendment:

S. Res. 240. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5027, as reported. Referred to the Committee on the Budget.

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 239. An original resolution to provide severance pay for certain committee staff members who are displaced as a result of the reorganization of Senate committee staffs caused by the Committee System Reorganization Amendments of 1977 (Rept. No. 95-387).

By Mr. PELL, from the Committee on Human Resources:

Without amendment:

S. 2002. An original bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon Unified School District, Ariz., and for other purposes (Rept. No. 95-388).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 1866. A bill to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section (Rept. No. 95-389).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

H.R. 5027. An act to amend title 38 of the United States Code to clarify the requirement that medical services be provided by the Veterans' Administration in certain cases (title amendment) (Rept. No. 95-390).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

A special report entitled "Report With a Recommendation of the Committee on Foreign Relations on Foreign Travel Paid for by Foreign Governments" (Rept. No. 95-391).

By Mr. PELL, from the Committee on Human Resources:

Without amendment:

S. 1752. A bill to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes (Rept. No. 95-392).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 233. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1952, a bill amending the Federal Water Pollution Control Act (Rept. No. 95-393).

S. Res. 228. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 977 (Rept. No. 95-394).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Ray V. Fitzgerald, of South Dakota, to be a member of the Board of Directors of the Commodity Credit Corporation.

Sarah Weddington, of Texas, to be General Counsel of the Department of Agriculture.

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

By Mr. LONG, from the Committee on Finance:

Alonzo Lowry McDonald, Jr., of Connecticut, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Simon David Freeman, of Maryland, to be a member of the Board of Directors of the Tennessee Valley Authority.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

John C. Krsul, of Montana, to be U.S. marshall for the district of Montana.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Earl E. Veron, of Louisiana, to be U.S. district judge for the western district of Louisiana.

By Mr. WILLIAMS, from the Committee on Human Resources:

Irene Tinker, of Maryland, to be an Assistant Director of the ACTION Agency.

Mary Frances Cahill Leyland, of New York, to be an Assistant Director of the ACTION Agency.

Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board.

John Robert Lewis, of Georgia, to be an Associate Director of the ACTION Agency.

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

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on the Judiciary:

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 1934. An act for the relief of Dr. Lawrence C. B. Chan;

H.R. 1939. An act for the relief of Meda Abilay Florin;

H.R. 2758. An act for the relief of Carmen Prudence Hernandez;

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandez;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 5555. An act for the relief of Adelida Rea Berry; and

H.R. 5928. An act for the relief of Miss Coralia Raposo.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, August 3, 1977, he presented to the President of the United States the following enrolled bill:

S. 826. An act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HASKELL:

S. 1989. A bill to reform the tax laws of the United States; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. RIBICOFF):

S. 1990. A bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METCALF (for himself, Mr. ABOUREZK, Mr. MCGOVERN, and Mr. METZENBAUM):

S. 1991. A bill to conserve the Nation's energy resources; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. HART, and Mr. METZENBAUM):

S. 1992. A bill to establish reporting requirements and voluntary energy efficiency targets for industry, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. PELL, and Mr. STONE):

S. 1993. A bill to amend title XVIII of the Social Security Act to enable certain individuals to enroll in the insurance program established by such title; to the Committee on Finance.

By Mr. CRANSTON:

S. 1994. A bill to amend title XVIII of the Social Security Act so as to permit payment under the Medicare program for certain hospital services provided in Veterans' Administration hospitals; to the Committee on Finance.

By Mr. ABOUREZK:

S. 1995. A bill to grant admission to the United States to certain nationals of Chile and the spouses, children, and parents of such nationals, and for other purposes; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. LEAHY, Mr. FORD, Mr. MELCHER, and Mr. LAXALT):

S. 1996. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the armed forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE:

S. 1997. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Finance.

By Mr. INOUYE:

S. 1998. A bill for the relief of Ms. Marlene Sabina Lajola; to the Committee on the Judiciary.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 1999. A bill to amend section 447 of the Internal Revenue Code pertaining to accounting procedures for businesses operating nurseries; to the Committee on Finance.

S. 2000. A bill to provide for the use and distribution of funds appropriated in satisfaction of the judgment awarded to the Seminole Indians in Dockets 73 and 151 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BENTSEN (for himself, Mr. GRAVEL, and Mr. TOWER):

S. 2001. A bill authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power and other purposes; considered and passed.

By Mr. PELL, from the Committee on Human Resources:

S. 2002. An original bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon Unified School District, Arizona, and for other purposes. Placed on the Calendar.

By Mr. HELMS (for himself, Mr. PERCY, Mr. STEVENSON, and Mr. TOWER):

S. 2003. A bill to amend the Bretton Woods Agreements Act and the Gold Reserve Act, and for other purposes; to the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HASKELL:

S. 1989. A bill to reform the tax laws of the United States; to the Committee on Finance.

Mr. HASKELL. Mr. President, today I introduce legislation which I believe comes to terms with one of the most important issues before this or any other Congress: the return of our Internal Revenue Code to the simple, fair and logical system it was intended to be.

The path away from that simple, fair system began about 20 years ago when the Federal Government found that the tax system was a handy tool which could be adapted to any social or economic need. Since then, the Congress has drafted thousands of special provisions to prod some social or economic activity by offering reduced taxes for those who pursue the activity. It is that use of the tax system which has made it what it is today—what President Carter quite rightly calls "a disgrace." The tax system today is burdensome, unfair, and irrational. Few even claim to understand it and everyone resents it as a maze of special interest provisions.

In the years since the Congress began tampering with the tax code for purposes other than revenue raising, it has failed repeatedly to do anything but make the situation worse. What it calls reform is usually a cosmetic surgery.

It has long been painfully evident that the tax system distorts the economy, rewards inefficiency, penalizes small businesses and those who work for wages. But the congressional response to this mess of its own making is best typified by a provision included in the grossly misnamed "Tax Reform Act of 1976."

Faced once more with the knowledge that many huge incomes escape all taxes because of shelters and other special tax breaks, the Congress again imposed a minimum tax. The minimum tax seemed to me a confession of failuure. It was a statement that, all the tax breaks notwithstanding, Congress really intended for everyone to pay a little something in taxes.

The few of us who urged an attack on the very tax loopholes which made such abuses possible were routinely and overwhelmingly outvoted.

I think the reason real tax reform has eluded us for years is simple: every special tax provision written into the code has a constituency which benefits from it.

The Congress cannot combat the regional and national tax loophole constituencies which it has created over the years and which now hold many members hostage. That is a consequence the Congress probably never intended when it began excusing first one enterprise, then another, from its fair share of taxes. But it happened all the same. And now those beneficiaries of tax loopholes are strong, entrenched and effective, able in many districts and states to perpetuate their friends in office and punish their enemies.

That is where President Carter comes in—if he chooses. He can make tax reform a major issue. He is ideally situated to focus the attention of average taxpayers on reform. He can transform the vague resentment and mistrust most Americans feel into a force for reform. If the President offers strong leadership for reform, this could be the Congress in which the Tax Code is attacked with a meat ax instead of with a cosmetic scalpel.

I see some reasons to be hopeful that the administration will accept that role, as well as some signs that optimism ought to be no more than cautious.

Throughout his campaign, Jimmy Carter pledged tax reform would be a prime goal of his administration. Yet, the President's energy proposals indicate he is as willing as other Presidents and other Congresses to use the Tax Code as an all-purpose tool. I hope the President will realize it is such uses of the Tax Code which have made it a "disgrace" and that the first step toward its redemption is a rejection of most such uses—however tempting. There is a handful of important exceptions which I will mention later. It is unlikely the President will get his way on energy taxes. Still, it is disappointing that he is even trying.

On the positive side, some of the bits and pieces of the administration's tax reform package which are beginning to sift down are quite promising.

Though tax reform will be an awesome and complex task, there are a few simple principles which should guide it and express its goals. These are embodied in the bill I introduce today. I hope these principles are also the basis of President Carter's reform proposal which we expect to see this fall.

Reform should return us to a tax system which is simple, fair and progressive—that is people should be taxed according to their ability to pay. All three goals, I believe, will be furthered by the following steps:

Taxpayers should state their income for tax purposes just like they state it for their bankers. Income is income, regardless of source, and should be taxed at the appropriate rate. Taxpayers with similar incomes should pay similar taxes.

As a rule, only those tax preferences generally available to all taxpayers, regardless of income, should be retained. These include the deductions for home mortgage interest, medical expenses and charitable contributions. Most narrowly drawn provisions in the tax code should be repealed.

Small businesses deserve and need tax relief. Nearly all tax breaks over the years have worked to the benefit of the giant corporation. To help offset that, the corporate surtax exemption should be increased for small businesses.

Corporate income is now taxed twice, once as corporate profits, again after those profits are distributed as dividends to shareholders. The Tax Code also favors certain stocks over others and, as a result, certain shareholders over others. That is unfair. The corporate income tax should be integrated with the personal income tax.

All tax rates should be lowered. They are higher than they need to be because we have, through exemptions, exclusions, deductions and special treatments, steadily cut into the taxable base to which those rates are applied.

The bill I introduce today would repeal 16 special tax breaks in the code and limit as many more. Two examples illustrate the kinds of loopholes I am seeking to close. First is the investment tax credit. This is nothing more than an outright Federal subsidy—to the tune of over $8 billion a year—to businesses for buying equipment. As with most business tax breaks, this one will work almost entirely to the benefit of the big corporation. According to the Treasury Department, over 70 percent of the benefits of this tax break in 1972 went to less than 1 percent of the Nation's corporations, those with assets of $100 million or more.

Furthermore, the tax credit fails to do what it was meant to do. Congressional Research Service economists concluded in a recent study that each dollar of revenue lost through the credit produces only 50 cents of added investment. That means that at least half the credit is used to offset routine equipment replacement costs. Beyond that, it is impossible to know how much of the increased investment might have occurred anyway because of normal increases in productivity.

In addition, the investment tax credit discriminates against both new and small businesses. An important exception to this repeal is that it would leave the investment tax credit in place for small firms and family farms.

A second tax break I hope to eliminate is the asset depreciation range or ADR which taps the U.S. Treasury for $1 billion a year. Like the investment credit, it is aimed at spurring equipment investment. ADR allows a taxpayer to depreciate his capital assets more rapidly than would be the case under normal business accounting methods.

Also like the investment credit, ADR does not do the job it is supposed to do. A McGraw-Hill Capital Expenditure Survey found "little evidence that liberalization of depreciation allowances of this type will have much effect on investment." If ADR does not encourage investment, it simply subsidizes businesses for what they would probably be doing anyway.

Corporate giants benefit most by ADR. One estimate has 55 percent of the benefits going to the largest 103 corporations and 80 percent going to the largest 2500. These comprise only a twentieth of 1 percent of all U.S. businesses.

Where applicable, my bill would allow taxpayers to continue to use accelerated depreciation and other special treatments on assets they already hold but not on new assets. Retroactive repeals are unfair. Taxpayers who use the special provisions of the code have every right to do so and have made plans and investment decisions on the basis of the present law.

All taxpayers should benefit from the revenue raised by repealing certain provisions and limiting the use of others. My bill does this by lowering all tax rates by one percentage point and by cuttting the top tax rate—the 70 percent on investment income—to 50 percent, the same as the top rate now for earned income.

This cut in the top rate may seem excessively generous. It is not. The 70 percent rate is largely a fiction. According to Joseph Pechman of the Brookings Institute, the average top rate paid by people in the upper income brackets is around 32 percent. But it is true that the threat of a 70-percent tax rate drives many people to seek ways to shelter high incomes. High-income taxpayers are able to find ways to reduce their taxable income enormously through tax-favored investments before applying the appropriate tax rate.

Those special treatments should be eliminated and income should be taxed at reasonable rates without regard to source. Once those reforms are in place, a 70-percent rate may well be confiscatory. Regardless, such a rate is not necessary if the tax base is increased. It is the erosion of that base which has driven all tax rates up and it is that erosion which my bill seeks to halt. Cutting the top rate should make tax shelters much less attractive and as a result, easier to repeal.

That same tactic should be useful in the corporate sector. The business lobbies have actually drawn their own special tax provisions over the years, found friendly Members of Congress to introduce them, then fought fiercely and effectively to save them once passed. The sole purpose of business tax breaks can be eliminated. I think, with the elimination of the corporate income tax. There are several other advantages to this approach besides removing one of the biggest barriers to tax reform.

The tax code distorts economic activity in this country enormously, resulting in great horizontal inequity between certain kinds of corporations. Banks and oil companies pay taxes at an effective rate of around 6 to 8 percent. Major manufacturing firms pay at about 40 percent—much closer to the statutory 48-percent corporate rate. The average corporate tax rate paid is between 30 and 32 percent.

These wide variations are a result of the kinds of tax breaks available to the various corporations. I do not believe a dollar of oil revenue should be taxed at a lower rate than a dollar of auto revenue. But it is. And the real effect of all this is that the Tax Code subsidizes shareholders in banks and oil companies and penalizes shareholders in major manufacturing firms.

The Tax Code should be neutral in this regard and my bill seeks to make it so.

One way to achieve this neutrality is by so-called corporate integration. Integration simply means combining the two taxes, corporate and individual, so that instead of taxing corporate profits at the corporate rate, then taxing dividends paid to the individual at his individual rate, we tax corporate income only once—at the shareholder level.

Under my bill, corporations would not pay taxes on earnings but would withhold taxes, on behalf of stockholders, at the present corporate rates. The system would work for stockholders much the same as the present withholding system now works for wage earners. Stockholders would reduce their individual taxes by the amount corporations had already withheld in their name.

The major advantage to this approach, as I have noted, is that it will make the Internal Revenue Code neutral insofar as various kinds of stocks are concerned. Investors with plenty of money typically do not need dividends and will lean toward growth stocks which pay no dividends. So by taxing dividend-paying stocks twice, we are penalizing those who would prefer—and who may need—to invest in steady, stable dividend-paying stocks. Most analysts agree that this distorts stock market patterns.

Others argue that it encourages bigness; that is, it encourages corporations to retain earnings which they then use to expand. Under my corporate integration plan, stockholders would be charged with taxes on all corporate earnings, not just on dividends. They would be very reluctant to pay taxes on income they did not receive. Corporations would thus be encouraged to distribute wealth in the form of dividends.

Individuals in the lower or middle income brackets would benefit not only by the lower rates my bill proposes but by another provision which would allow them to take a $250 credit in place of the present $750 personal exemption. A credit is worth the same to all taxpayers. The value of an exemption depends upon the individual's tax bracket. It is worth more to those in higher brackets, less to those in lower brackets. Because the personal exemption is designed to help offset the basic cost of staying alive, it should not be worth more to the rich than to the poor. But it is now. The $750 deduction is worth $375 to one in the 50 percent tax bracket but only $150 for one in the 20 percent bracket.

The credit I propose would be worth the same $250 to every taxpayer. It would mean that an additional 11.6 million Americans would owe no taxes. Another 59 million taxpayers, all those who earn less than $50,000 a year, would enjoy tax reductions through the use of the credit.

Mr. President, real tax reform, of course, does not just mean cutting taxes. And it does not mean soaking the rich. It does mean returning our tax system to a simple, rational code which gives all Americans the assurance that they are paying their fair share and so is every one else.

Those who are now paying their fair share would benefit under my bill; only those who are not would be penalized.

Mr. President, I ask unanimous consent that my bill be printed in its entirety in the CONGRESSIONAL RECORD at the conclusion of these remarks.

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

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Tax Reform Act of 1977".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

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

(d) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by this Act apply to taxable years beginning after December 31, 1977.

TITLE I—INCOME TAX AMENDMENTS

SEC. 101. REPEALS.

(a) INTERNAL REVENUE CODE.—The following provisions in chapter 1 (relating to normal taxes and surtaxes) are repealed:

(1) Section 40 (relating to expenses of work incentive programs).

(2) Subpart C of part IV of subchapter A of chapter 1 (relating to rules for computing credit for expenses of work incentive programs).

(3) Section 1201 (relating to alternative tax).

(4) Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences).

(5) Section 116 (relating to partial exclusion from gross income of divdends received by individuals).

(6) Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing).

(7) Section 167(m) (relating to class lives).

(8) Section 169 (relating to amortization of pollution control facilities).

(9) Section 174 (relating to research and experimental expenditures).

(10) Section 184 (relating to amortization of certain railroad rolling stock).

(11) Section 188 (relating to amortization of certain expenditures for on-the-job training and child care facilities).

(12) Section 272 (relating to disposal of coal or domestic iron ore).

(13) Section 46(a)(2)(B) (relating to additional investment tax credit for employee stock ownership plans).

(14) Section 616 (relating to developmental expenditures).

(15) Section 617 (relating to deduction and recapture of certain mining exploration expenditures).

(16) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).

(17) Section 643(a)(7) (relating to definitions applicable to trusts and estates).

(18) Section 911 (relating to earned income from sources within the United States).

(19) Section 931 (relating to income from sources within a possession of the United States).

(20) Part IV of subchapter N of chapter 1 (relating to domestic international sales corporations).

(21) Section 1231(b)(2) (relating to timber, coal or domestic iron ore).

(22) Section 1244 (relating to losses on small business stock).

(23) Section 1348 (relating to fifty-percent maximum rate on personal service income).

(b) Other Statutes.—Section 607(h) of the Merchant Marine Act, 1936 (relating to capital construction fund) is repealed.

SEC. 102. TAX RELATED PROVISIONS OF LAW OUTSIDE THE INTERNAL REVENUE CODE.

Within one year after the date of enactment of this Act, the Secretary or his delegate shall make a report to Congress in which he describes each provision of law, other than provisions of the Internal Revenue Code of 1954, which provides a credit against any tax imposed by such Code, an exclusion from gross income for purposes of such Code, a deduction from gross income for purposes of such Code, or a deferral of the time for payment of any tax imposed by such Code by any means. Such report shall include any reasons for keeping each such provision outside the Internal Revenue Code of 1954 and the Secretary's views on including such provision in such Code.

SEC. 103. INCREASE OF CORPORATE SURTAX EXEMPTION.

(a) In General.—Section 11(d) (relating to surtax exemption) is amended to read as follows:

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is $100,000 reduced (but not below zero) by an amount equal to 2 times the amount by which the taxable income for such year (determined without regard to this subsection) exceeds $250,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.".

(b) CONFORMING AMENDMENT.—Section 1561 (relating to surtax exemptions in case of certain controlled corporations) is amended to read as follows:

"SEC. 1561. SURTAX EXEMPTIONS IN CASE OF CERTAIN CONTROLLED CORPORATIONS.

"(a) GENERAL RULE.—If a corporation is a component member of a controlled group of corporations on a December 31, then for purposes of this subtitle the surtax exemption of such corporation for the taxable year which includes such December 31 shall be an amount equal to—

"(1) the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income for such group of corporations for such taxable year, divided by the number of corporations which are component members of such group on such December 31, or

"(2) if all such component members consent (at such time and in such manner as the Secretary shall by regulations prescribe) to an apportionment plan, such portion of the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income of such group of corporations for such taxable year, as is apportioned to such member in accordance with such plan.

The sum of the amounts apportioned under paragraph (2) among the component members of any controlled group shall not exceed the amount of the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income of such group of corporations for such taxable year.

"(b) CERTAIN SHORT TAXABLE YEARS.—If a corporation—

"(1) has a short taxable year which does not include a December 31, and

"(2) is a component member of a controlled group of corporations with respect to such taxable year,

then for the purposes of this subtitle the surtax exemption of such corporation for such taxable year shall be an amount equal to the amount of the surtax exemption under section 11(d), calculated on the basis of the total amount of taxable income of such group of corporations for such taxable year, divided by the number of corporations which are component members of such group on the last day of such taxable year. For purposes of the preceding sentence, section 1563(b) shall be applied as if such last day were substituted for December 31.".

SEC. 104. INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (a) of section 38 (relating to investment in certain depreciable property) is amended to read as follows:

"(a) GENERAL RULE.—In the case of a taxpayer with assets which, as determined by the Secretary, exceed liabilities by less than $2,000,000, there shall be allowed as a credit against the tax imposed by this chapter, the amount determined under subpart B of this part.".

(b) SPECIAL RULE.—Section 38 is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) SPECIAL RULE.—If a taxpayer is a component member of a controlled group of corporations with respect to any taxable year, then for purposes of determining the amount of assets of the taxpayer for the taxable year, the assets of the controlled group shall be apportioned among the component members of the group in such a manner as the Secretary shall by regulations prescribe.".

SEC. 105. INTANGIBLE DRILLING DEDUCTIONS LIMITED TO EXPLORATORY DRILLING.

Section 263(c) (relating to intangible drilling and development costs) is amended by inserting after "Congress" the following: "except that such regulations shall limit the option to deduct such expenses to expenses attributable to exploratory wells".

SEC. 106. ALLOCATION OF DEDUCTIONS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280C. ALLOCATION OF DEDUCTIONS.

"(a) GENERAL RULE.—If a taxpayer has tax preferences exceeding $5,000 and allocable deductions for a taxable year, the total amount of such deductions otherwise allowable under this chapter shall be disallowed to the extent of an amount equal to such total amount multiplied by the section 280 fraction.

"(b) SECTION 280 FRACTION.—The 280 fraction is the fraction the numerator of which is the sum of tax preferences and the denominator of which is the sum of tax preferences plus taxable income (determined without regard to this section).

"(c) DEFINITIONS.—For purposes of this section—

"(1) ALLOCABLE DEDUCTIONS.—The term 'allocable deductions' means the amounts allowable as deductions for the taxable year by application of the following provisions:

"(A) section 163 (relating to interest),

"(B) section 164 (relating to taxes),

"(C) section 165 (relating to losses), but only with respect to a loss described in section 165(c)(3) (relating to casualty losses),

"(D) section 170 (relating to charitable contributions),

"(E) section 172 (relating to net operating loss deduction), but only to the extent that the amount allowable (without regard to this section) as a deduction is attributable to a loss described in section 165(c)(3),

"(F) section 213 (relating to medical, dental etc., expenses),

"(G) section 216 (relating to deduction of certain amounts by cooperative housing corporation tenant-stockholders),

"(H) section 263(c) (relating to deduction for intangible drilling and development costs in the case of oil and gas wells), with respect to each property (as defined in section 614), but only to the extent that the total amount allowable as a deduction by such section exceeds the total amount which would have been allowable as a deduction for drilling and development costs in the case of oil and gas wells if no deduction were allowed under section 263(c), and

"(I) section 1202 (relating to deduction for capital gains).

"(2) TAX PREFERENCES.—

"(A) IN GENERAL.—The term 'tax preferences' means—

"(i) CHARITABLE CONTRIBUTION OF APPRECIATED PROPERTY.—The amount of the deduction (determined without regard to section 277) for charitable contributions under section 170 or 642(c) allowable for the taxable year which is attributable to appreciation in the value of property not included in gross income (determined without regard to this section).

"(ii) INTEREST ON CERTAIN GOVERNMENTAL OBLIGATION.—The excess (if any) of interest on obligations which is excludable from gross income for the taxable year under section 103 over the sum of—

"(I) the amount of the proper adjustment to basis required to be made for the taxable year under section 1016(a) (5) or (6), and

"(II) the amount of deductions allocable to such interest which is disallowed by application of section 265(a)(1) (relating to expenses relating to tax exempt income).

"(iii) CAPITAL GAINS DEDUCTION.—The amount allowable as a deduction for long-term capital gains under section 1202.

"(3) NONRESIDENT ALIENS.—In the case of a nonresident alien, the items of tax preference shall include only those items of income which are effectively connected with the conduct of a trade or business within the United States and those items of deductions which are allowable as deductions in determining taxable income which is effectively connected with the conduct of a trade or business within the United States.

"(d) AMOUNT DISALLOWED FROM EACH ALLOCABLE EXPENSE.—For purposes of this chapter, the amount of deductions disallowed by this section shall be disallowed proportionately from each allocable deduction.".

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"SEC. 280C. Allocation of deductions."

SEC. 107. INTEREST ON CERTAIN GOVERNMENTAL OBLIGATIONS.

(a) ELECTION TO ISSUE TAXABLE BONDS.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) ELECTION TO ISSUE TAXABLE BONDS.—

"(1) SUBSECTION (a)(1) NOT TO APPLY.—The issuer of obligations described in subsection (a)(1) may elect to issue obligations to which subsection (a)(1) does not apply.

"(2) ELECTION.—The election described in paragraph (1) shall be made (at such time, in such manner, and subject to such conditions as the Secretary by regulation prescribes) with respect to each issue of obligations to which it is to apply. An election with respect to any issue once made shall be irrevocable.".

(b) PERMANENT AUTHORIZATION.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section. Such authorization shall be deemed permanent.

(c) PAYMENT OF FIXED PERCENTAGE OF INTEREST YIELD.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay 40 percent of the interest yield on each issue of obligations to which an election under section 103(e) of the Internal Revenue Code of 1954 applies. Such payments shall apply with respect to all issues of obligations made during such calendar quarter to which elections under such section 103(e) apply.

(2) INTEREST YIELD.—For purposes of this section, the interest yield on any issue of obligations shall be determined immediately after such obligations are issued.

(3) TIME OF PAYMENT.—Payment of any interest required pursuant to paragraph (1) shall be made by the Secretary of the Treasury or his delegate not later than the time at which the interest payment on the obligation is required to be made by the issuer.

(d) DUAL COUPON OBLIGATIONS.—At the request of the issuer, the liability of the United States under this section to pay interest to the holders of an issue of obligations shall be made through assumption by the United States of the obligation to pay a separate set of interest coupons issued with the obligations.

(e) SECTION TO APPLY ONLY TO SECTION 103(e) OBLIGATIONS.—This section shall apply only to obligations which, but for an election under section 103(e) of the Internal Revenue Code of 1954, would be obligations to which section 103(a)(1) of such Code applies.

SEC. 108. REPEAL OF DEDUCTION OF INVESTMENT INTEREST.

Section 163(d) (relating to interest) is amended to read as follows:

"(d) INVESTMENT INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no amount of investment interest paid or accrued during the taxable year in excess of the amount which is equal to the amount of gross income (if any) attributable to the investment with respect to which such interest is paid reduced by the total amount of deductions, other than the deduction allowed under this section, attributable to such investment.

"(2) REGULATIONS.—The Secretary shall prescribe regulations to carry out the provisions of paragraph (1).

"(3) DEFINITION.—For the purposes of this section, the term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.".

SEC. 109. LIMITATION ON DEDUCTION OF MORTGAGE INTEREST.

Section 163 (relating to interest) is amended by—

(1) redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) LIMITATIONS ON INTEREST ON RESIDENTIAL PROPERTY MORTGAGES.—

"(1) PRINCIPAL RESIDENCE LIMITATION.—In the case of an individual, no deduction for a taxable year shall be allowed under subsection (a) for interest paid or accrued with respect to a mortgage on residential property in which the taxpayer lives during such year unless such property is the principal residence of the taxpayer during such year.

"(2) DEFINITION.—For purposes of this subsection, the term 'individual' includes an individual and his spouse.".

SEC. 110. REAL PROPERTY.

(a) DEPRECIATION.—Section 167(j) (relating to special rules for section 1250 property) is amended to read as follows:

"(j) SPECIAL RULE FOR SECTION 1245 AND SECTION 1250 PROPERTY.—

"(1) GENERAL RULE.—In the case of section 1245 property (as defined in section 1245(a)(3)) and in the case of section 1250 property (as defined in section 1250(c)), subsection (b) shall not apply and the term 'reasonable allowance' as used in subsection (a) means an allowance, computed in accordance with regulations prescribed by the Secretary under the straight line method.

"(2) CHANGE IN METHOD OF DEPRECIATION.—Any change in the computation of the allowance for depreciation required by reason of the application of paragraph (1) shall not be considered a change in method of accounting.

"(3) LIMITATION BASED ON TAXPAYER'S EQUITY.—In the case of section 1250 property, the deduction for depreciation for the taxable year with respect to such property shall not be allowed to the extent it would reduce the adjusted basis of the property at the end of the year below an amount equal to any mortgage indebtedness at the end of the year on the property minus the adjusted basis of the land allocable to such property.

"(4) CARRYOVER OF UNUSED DEPRECIATION.—If the amount of depreciation determined with respect to property to which this subsection applies for any taxable year exceeds the limitation provided by paragraph (3) for that year (hereinafter referred to as the 'unused deduction year'), such excess shall be a depreciation deduction carryover to succeeding taxable years. The amount of the unused deduction shall first be carried over to the taxable year next following the unused deduction year, and then carried over to each succeeding taxable year to the extent that, because of the limitation contained in paragraph (3), such unused deduction may not be used for a prior taxable year to which it might have been carried. The amount of the unused deduction which may be added under this paragraph to any taxable year succeeding the unused deduction year shall not exceed the amount by which the maximum amount allowable under the limitation provided by paragraph (3) exceeds the sum of—

"(A) the deduction allowable under subsection (a) and this subsection for section 1250 property, and

"(B) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused deduction year.".

(b)(1) RECAPTURE.—Section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) ORDINARY INCOME.—Except as otherwise provided in this section, if section 1250 property is disposed of after the date of the enactment of the Tax Reform Act of 1977, the amount by which the lower of—

"(1) the recomputed basis of the property, or

"(2)(A) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

"(B) in the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) RECOMPUTED BASIS.—For purposes of this section, the term 'recomputed basis' with respect to any property means its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1963, reflected in such adjusted basis on account of deductions (whether in

respect to the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization (other than amortization under section 168, 169, 185, or 188). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed.".

(2) Section 1250(d) (relating to exceptions and limitations) is amended—

(A) by striking out paragraph (4)(E),

(B) by striking out paragraph (6)(B),

(C) by striking out paragraph (8)(D), and

(D) by striking out paragraph (8)(E).

(3) Section 1250 is further amended by striking out subsection (e) (relating to holding period), subsection (f) (relating to treatment of separate elements), and subsection (g) (relating to special rules for low-income housing).

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to property acquired by the taxpayer after December 31, 1977, or the construction, reconstruction, or erection of which is begun after such date.

(2) The amendments made by this section shall not apply to property described in paragraph (1) if such property was acquired, constructed, reconstructed, or erected after December 31, 1977, pursuant to a binding contract into which the taxpayer has entered before December 31, 1977.

SEC. 111. TAX SHELTER FARM LOSSES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280C (as added by section 106 of this Act) the following new section:

"SEC. 280D. LIMITATION ON DEDUCTIONS ATTRIBUTABLE TO FARMING.

"(a) GENERAL RULE.—In the case of taxpayer engaged in the business of farming, the deductions attributable to such business which, but for this section, would be allowable under this chapter for the taxable year shall not exceed the sum of—

"(1) the gross income derived from the business of farming for such taxable year, and

"(2) in the case of an individual, the higher of—

"(A) $15,000, if such individual has gross income derived from sources other than the business of farming for the taxable year in excess of $20,000, or

"(B) the amount of the special deductions (as defined in subsection (e)(1)) for the taxable year, or

"(3) in the case of any other taxpayer, the amount of the special deductions for the taxable year.

For purposes of this subsection, the term individual does not include a trust.

"(b) MARRIED INDIVIDUALS AND MEMBERS OF CONTROLLED GROUPS.—

"(1) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a separate return, the $15,000 amount specified in subsection (a) shall be $7,500. The preceding sentence shall not apply if the spouse of the taxpayer does not have any income or deductions attributable to the business of farming for the taxable year.

"(2) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)) the $15,000 amount specified in subsection (a) shall be divided equally among the component members of such group unless all component members consent (at such time and in such manner as the Secretary prescribes by regulations) to an apportionment plan providing for an unequal allocation of such amounts.

"(c) EXCEPTION FOR TAXPAYERS USING CERTAIN ACCOUNTING METHODS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to a taxpayer who elects to compute taxable income from farming (A) by using inventories, and (B) by charging to capital account all expenditures paid or incurred which are properly chargeable to capital account (including such expenditures which the taxpayer may, under this chapter or regulations prescribed thereunder, otherwise treat or elect to treat as expenditures which are not chargeable to capital account).

"(2) TIME, MANNER, AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be filed within the time prescribed by law (including extensions thereof) for filing the return for such taxable year, and shall be made and filed in such manner as the Secretary shall prescribe by regulations. Such election shall be binding on the taxpayer for such taxable year and for all subsequent taxable years and may not be revoked except with the consent of the Secretary or his delegate.

"(3) CHANGE OF METHOD OF ACCOUNTING, ETC.—If, in order to comply with the election made under paragraph (1) a taxpayer changes his method of accounting in computing taxable income from the business of farming, such change shall be treated as having been made with the consent of the Secretary and for purposes of section 481(a)(2) shall be treated as a change not initiated by the taxpayer.

"(d) CARRYOVER OF FARM OPERATING LOSSES.—The amount not allowed as deductions by reason of subsection (a) for any taxable year shall be treated as a deduction attributable to the business of farming for each succeeding taxable year (to the extent not allowed as a deduction under this subsection for any prior taxable year), except that the amount so treated shall be allowable as a deduction for any such succeeding taxable year only in an amount not to exceed the amount by which—

"(1) the gross income derived from the business of farming for such succeeding taxable year exceeds

"(2) the deductions allowable by this chapter (computed without regard to this subsection) for such succeeding taxable year which are attributable to the business of farming.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) SPECIAL DEDUCTIONS.—The term 'special deductions' means the deductions allowable under this chapter which are attributable to the business of farming and which are attributable to—

"(A) taxes,

"(B) interest,

"(C) losses arising from fire, storm, or other casualty, or from abandonment or theft,

"(D) losses and expenses directly attributable to drought, and

"(E) recognized losses from sales, exchanges, and involuntary conversions.

"(2) INCOME AND DEDUCTIONS.—The determination of whether any item of income is derived from the business of farming and whether any deduction is attributable to the business of farming shall be made under regulations prescribed by the Secretary,

but gains or losses which for the taxable year are treated under section 1231(a) (after the application of section 1245) as gains and losses from sales or exchanges of capital assets held for more than 12 months shall not be taken into account.

"(3) BUSINESS OF FARMING.—

"(A) HORSERACING.—In the case of a taxpayer engaged in the raising of horses, the business of farming includes the racing of horses.

"(B) SEVERAL BUSINESSES OF FARMING.—If a taxpayer is engaged in more than one business of farming, all such businesses shall be treated as one business.

"(C) RELATED INTEGRATED BUSINESSES.—If a taxpayer is engaged in the business of farming and is also engaged in one or more businesses which are directly related to his business of farming and are conducted on an integrated basis with his business of farming, the taxpayer may elect to treat all such businesses as a single business of farming. An election under this paragraph shall be made in such manner, at such time, and subject to such conditions as the Secretary may prescribe by regulations.

"(4) PARTNERSHIPS.—A business of farming carried on by a partnership shall be treated as carried on by the members of such partnership in proportion to their interest in such partnership."

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280D. Limitation on Deductions Attributable to Farming.".

SEC. 112. CERTAIN TRANSACTIONS DISQUALIFIED AS REORGANIZATIONS.

(a) IN GENERAL.—Section 368(a)(2) (relating to special rules in connection with definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

"(g) 25-percent rule for paragraphs (1)(A), (B), and (C).—A transaction described in paragraph (1)(A) shall be disqualified as a reorganization if the shareholders of any corporation entering into the merger or consolidation own, immediately after and as a result of the transaction, less than 25 percent of the total combined voting power of all classes of stock entitled to vote of the surviving corporation in the merger or consolidation or of the controlling corporation described in subparagraph (D) or (E) of this paragraph. A transaction described in paragraph (1)(B) or (C) shall be disqualified as a reorganization if the shareholders of the corporation whose stock or assets are acquired own, immediately after and as a result of the transaction, less than 25 percent of the combined voting power of all classes of stock entitled to vote of the acquiring corporation or of the corporation in control of the acquiring corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be applicable to transactions after the date of the enactment of this Act.

SEC. 113. REPEAL OF SPECIAL TREATMENT OF BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS.

(a) BANKS.—Section 585 (relating to reserves for losses on loans of banks) is amended by adding at the end thereof the following new subsection:

"(c) NO SPECIAL ADDITIONS for Years After 1976.—Subsections (a) and (b) shall not apply to taxable years beginning after December 31, 1976, and the reasonable addition to the reserve for bad debts for any taxable year beginning after such date shall be computed under section 166(c) on the basis of the actual experience of the taxpayer.".

(b) SAVINGS INSTITUTIONS.—Section 593(b) (relating to addition to reserves for losses on loans) is amended by adding at the end thereof the following new paragraph:

"(6) NO SPECIAL ADDITIONS FOR YEARS AFTER 1976—This subsection (other than this paragraph) will not apply to taxable years beginning after December 31, 1976, and reasonable addition to the reserve for bad debts for any taxable year beginning after such date shall be computed under section 166(c) on the basis of the actual experience of the taxpayer.".

SEC. 114. LIMITATION ON PERCENTAGE DEPLETION TO COST.

Section 611(b) (relating to percentage depletion) is amended by adding at the end thereof the following new paragraph:

"(5) Maximum depreciation.—In no case shall the allowance for depletion under this section which is computed under sections 613 and 613A for any taxable year be less than it would be if computed under this section, except that in no case shall the aggregate allowances for depletion under section 611 for all taxable years computed with reference to such sections be more than the adjusted basis of the property determined without regard to the deductions allowed by this section.".

SEC. 115. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT.

(a) IN GENERAL.—Section 1023 (relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976) is amended—

(1) by striking out "(determined after any adjustment under subsection (h))" in subsection (c);

(2) by striking out "(h) or" each time it appears in subsection (d)(1);

(3) by striking out "(h)," in subsection (e);

(4) by striking out "(as determined after any adjustment under subsection (h))" in subsection (f)(2); and

(5) by striking out subsection (h).

(b) The amendments made by this section shall apply to estates of decedents dying after the date of enactment of this Act.

SEC. 116. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart II thereof the following:

"Subpart I—Controlled Foreign Corporations

"Sec. 983. Amounts included in gross income of United States shareholders.

"Sec. 984. Definitions.

"Sec. 985. Rules for determining stock ownership.

"Sec. 986. Exclusion from gross income of previously taxed earnings and profits.

"Sec. 987. Adjustments to basis of stock in controlled foreign corporations and of other property.

"Sec. 988. Special rules for foreign tax credit.

"Sec. 989. Election by individuals to be subject to tax at corporate rates.

"Sec. 990. Records and accounts of United States shareholders.

"Sec. 990A. Transition rules for period before subpart I is completely phased in.

"SEC. 983. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNT INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation which owns (within the meaning of section 985(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 985(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 985(a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be reduced by the amount, if any, by which the sum of the deficits in earnings and profits of such corporation for any prior taxable years beginning after December 31, 1976, exceed the sum of the earnings and profits of such corporation for such prior taxable years,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country but any such amounts shall be included in earnings and profits for the first taxable year in which such restrictions or limitations are terminated or modified to permit distribution of such amounts.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(d) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"(e) SPECIAL RULE IN CASE OF INDIRECT OWNERSHIP.—For purposes of subsection (b), if—

"(1) a United States shareholder owns (within the meaning of section 985(a)) stock of a foreign corporation, and by reason of such ownership owns (within the meaning of such section) stock of any other foreign corporation, and

"(2) any of such foreign corporations has a deficit in earnings and profits for the taxable year,

then the earnings and profits for the taxable year of each such foreign corporation which is a controlled foreign corporation shall, with respect to such United States shareholder, be properly reduced to take into account any deficit described in paragraph (2) in such manner as the Secretary shall prescribe by regulations.

"(f) CONSOLIDATION OF EARNINGS AND PROFITS FROM MULTIPLE FOREIGN CORPORATIONS.—Under regulations prescribed by the Secretary setting forth rules substantially similar to the rules contained in section 963(c) (relating to amounts to which section applies) as such section existed on the day before the date of enactment of the Tax Reduction Act of 1975, subsection (a) shall be applied to a United States shareholder who owns stock in more than one controlled foreign corporation, or who owns stock in other foreign corporations (whether controlled foreign corporations or not) through stock owned by a controlled foreign corporation, by taking into account the aggregate earnings and profits of all foreign corporations.

"SEC. 984. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(d)) who owns (within the meaning of section 985(a)), or is considered as owning by applying the rules of ownership of section 985(b), 1 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation—

"(1) of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by United States shareholders on any day during the taxable year of such foreign corporation, or

"(2) over which United States shareholders exercise actual control, as determined by the Secretary, from all facts and circumstances in the case.

"(c) LIMITATION ON ACTUAL CONTROL DETERMINATION.—In the case of a foreign corporation of which not more than 25 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by one or more United States shareholders on any day during the taxable year of such foreign corporation, the burden of proof in respect of the issue, for purposes of subsection (b)(2), as to whether such United States shareholders exercise actual control shall be upon the Secretary.

"SEC. 985. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation of foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered

to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 984, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 984(a), or to treat a foreign corporation as a controlled foreign corporation under section 984(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 986. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983 (a) shall not, when such amounts are distributed directly, or indirectly through a chain of ownership described under section 985(a), to—

"(1) such shareholder (or any person which acquires from any other person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a benficiary,

be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM EARNINGS AND PROFITS OF CERTAIN SUBSIDIARIES.—For purposes of section 983(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a), shall not, when distributed through a chain of ownership described under section 985(a), be also included in the earnings and profits of another controlled foreign corporation in such chain for purposes of the application of section 983(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 983(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC. 987. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 985(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 983(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 986(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 986(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 988. SPECIAL RULES FOR FOREIGN TAX CREDIT.

"(a) TAXES PAID BY FOREIGN CORPORATION.—

"(1) FIRST TIER FOREIGN SUBSIDIARY.—For purposes of subpart A of this part, if there is included, under section 983(a), in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation at least 1 percent of the voting stock of which is owned by such domestic corporation then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in the gross income of the domestic corporation bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.

"(2) SECOND TIER FOREIGN SUBSIDIARY.—If the foreign corporation described in paragraph (1) (hereinafter in this subsection referred to as the 'first foreign corporation') in the gross income of which there would be included (under section 983(a) applied as if the first foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a second foreign corporation in which it owns 10 percent or more of the voting stock the first foreign corporation shall be deemed to have paid the same proportion of any income war profits, or excess profits taxes paid or deemed to be paid by the second foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the second foreign corporation as the amount of earnings and profits of the second foreign corporation included (under rules similar to the rules prescribed under paragraph (1)) in the gross income of the first foreign corporation bears to the entire amount of the earnings and profits of the second foreign corporation for such taxable year.

"(3) THIRD TIER FOREIGN SUBSIDIARY.—If the first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation in the gross income of which there would be included (under section 983(a) applied as if the second foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a third foreign corporation in which it owns 10 percent or more of the voting stock, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the third foreign corporation as the amount of earnings and profits of the third foreign corporation included (under rules similar to the rules prescribed under paragraph (2)) in the gross income of the second foreign corporation bears to the entire amount of the earnings and profits of the third foreign corporation for the taxable year.

"(b) TAXES DEEMED PAID.—

"(1) TAXES PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 986, the income, war profits, and excess profits taxes or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such a distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by a domestic corporation under subsection (a) for any prior taxable year.

"(2) TAXES PAID BY FOREIGN CORPORATION AND NOT PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 986(a) shall be treated by the domestic corporation as a dividend solely for the purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under subsection (a) for any prior taxable year.

"(c) SPECIAL RULES FOR FOREIGN TAX CREDIT IN YEAR OR RECEIPT OF PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benfits of subpart A of this part for a taxable year in which he was required under section 983(a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits to any foreign country or to any possession of the United States, and

"(B) chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 986(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

"(C) for the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount,

the applicable limitation under section 904 for the taxable year in which such distribu-

tion or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

"(2) AMOUNT OF INCREASE.—The amount of increase of the applicable limitation under section 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

"(A) the amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income section 983(a) of the amount in respect of the controlled foreign corporation, reduced by

"(B) the amount of income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

"(3) CASES IN WHICH TAXES NOT TO BE ALLOWED AS DEDUCTION.—In the case of any taxpayer who—

"(A) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 983(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

"(B) does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 986(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

"(4) INSUFFICIENT TAXABLE INCOME.—If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

"SEC. 989. ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

"(1) the tax imposed under this chapter on amounts which are included in his gross income under section 983(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

"(2) for purposes of applying the provisions of section 988 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

"(b) ELECTION.—An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

"(c) SURTAX EXEMPTION.—For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to the surtax exemption as the amounts included in his gross income under section 983(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 983(a).

"(d) SPECIAL RULE FOR ACTUAL DISTRIBUTIONS.—The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 983(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 986(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

"SEC. 990. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons.

"SEC. 990A. TRANSITION RULES FOR PERIOD BEFORE SUBPART I IS COMPLETELY PHASED IN

"In the case of a United States shareholder whose taxable year ends within or with the taxable year of a foreign corporation which begins after December 31, 1976, and before January 1, 1982, the amount which such shareholder shall include in his gross income under this part (to the extent such inclusion is determined under this subpart) shall, notwithstanding any other provision of this subpart or subpart F, be an amount equal to the greater of—

"(1) the amount such shareholder would be required to include in his gross income for the taxable year under subpart F (as such subpart was in effect on the day after the date of enactment of the Tax Reform Act of 1976), or

"(2) the amount such shareholder would be required to include in his gross income under this subpart (determined without regard to this section).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote."

(2) Section 951 is amended by adding at the end thereof the following:

"(c) TAXABLE YEARS BEGINNING ON ENACTMENT OF THIS ACT—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning after December 31, 1976, to the extent that such amount is required to be included in the gross income of a United States shareholder under section 983(a).".

(3) Section 1016(a)(20) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 987".

(4) Section 1246(a)(2)(B) is amended by inserting "or 983" after "section 951" and by inserting "or 986" after "section 959".

(5) Section 1248 is amended—

(A) by amending subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 953.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 983, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 986.";

(B) by striking out in subsection (d)(3) "section 902(d)" and inserting in lieu thereof "subsection (h)", and by adding at the end of such subsection "No amount shall be excluded from the earnings and profits of a foreign corporation under this paragraph with respect to any United States person which is a domestic corporation for any taxable year of such foreign corporation beginning after December 31, 1976."; and

(C) by adding at the end thereof the following:

"(h) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—For purposes of this section, the term 'less developed country corporation' means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955(c)(1) or (2), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(c)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955(c)(1)(B)."

(6) Section 78 (relating to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) is amended by striking out "or under section 960(a)(1)(C) (relating to taxes paid by foreign corporation)" and inserting in lieu thereof the following: ", under section 960(a)(1)(C) (relating to taxes paid by foreign corporation), or under section 988(b) (relating to taxes deemed paid by corporations)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning after December 31, 1976, and to taxable years of United States shareholders which end within or with such taxable years of such foreign corporations.

TITLE II—TAX RELIEF AMENDMENTS

SEC. 201. REDUCTION IN MARGINAL TAX RATE.

Effective for taxable years beginning after December 31, 1976, each percentage figure appearing in the tables in section 1 (relating to tax imposed) shall be reduced by 1.

SEC. 202. OPTIONAL CREDIT AGAINST TAX FOR PERSONAL EXEMPTION.

(a) IN GENERAL.—Section 42 is amended to read as follows:

"SEC. 42. PERSONAL EXEMPTIONS.

"(a) GENERAL RULE.—At the election of the taxpayer, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to $250 multiplied by the number of exemptions to which the taxpayer is entitled under section 151. Such credit shall not exceed the tax imposed by this chapter for the taxable year.

"(b) ELECTION.—An election under subsection (a) for a taxable year may be made at any time before the expiration of the period for filing a claim for a refund or credit of an overpayment of tax for such taxable year and shall be made in such form and manner as the Secretary or his delegate prescribes by regulation.

"(c) DENIAL OF DEDUCTION.—If a taxpayer elects the credit provided by subsection (a) for a taxable year, no deduction shall be allowed under section 151 for any exemption to which he is entitled under such section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Personal Exemptions.".

(2) Section 41(b)(2) (relating to contributions to candidates for public office) is amended by striking out "and" before "section 38" and by inserting before the period at the end thereof a comma and "and section 42 (relating to personal exemptions)".

(3) Section 46(a)(4) (relating to the investment credit) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma and "or", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) section 42 (relating to personal exemptions).".

By Mr. ROTH (for himself and Mr. RIBICOFF):

S. 1990. A bill to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes; to the Committee on Governmental Affairs.

Mr. ROTH. Mr. President, today, on behalf of Senator RIBICOFF and myself, I am introducing the International Trade and Investment Reorganization Act which would bring together in one Cabinet-level department most of the many separate Federal offices and agencies that are now engaged in international trade and investment policy decisions.

This legislation is designed to streamline the Government apparatus involved in foreign trade and investment. It would consolidate into one department three separate Federal entities—the Office of the President's Special Trade Representative, the Export-Import Bank, and the Overseas Private Investment Corporation—as well as parts of the Treasury, Commerce, and State Departments. By reducing duplication, it would decrease the number of high level executive branch officials as well as the total number of governmental employees involved in these issues. It would strengthen U.S. efforts to promote job-creating exports and to protect domestic industries from unfair overseas competition.

At present, the governmental machinery dealing with foreign trade and investment decisions is hopelessly antiquated, outmoded, and confused. The effectiveness of our foreign economic policies has been sapped by bureaucratic infighting and unnecessary redtape. At times, foreign economic policy has been the hostage of other agency interests, such as foreign political interests. As in the case of energy, there has been no single focal point for the consideration of foreign economic policy.

We can no longer afford the present chaos. The governmental organization we have now is inherited from an earlier era when international trade was of marginal importance to our total economy and when U.S. technological advantages and the strength of the dollar ensured us a dominant role in international trade. It was an organization that grew up in a haphazard and piecemeal fashion; it was never planned.

We must be properly organized if we are going to be able to compete—and compete effectively—in today's rapidly changing and increasingly interdependent world. We cannot expect to have a first-rate international economic policy if we have only a third-rate governmental organization structure to develop and implement those policies.

The United States today is the only major economic power that does not have a specific Government ministry or department with responsibility for foreign trade activities. All of our major trading partners devote far more government attention to developing export markets and providing effective protection against disruptive or unfair imports.

Our trading partners know that exports mean jobs and income.

Exports mean jobs and income in the United States, too. Today it is estimated that 4.7 million American jobs are supported by sales in overseas markets. One of every six jobs in manufacturing is supported by exports. American farmers earn $23 billion from overseas agricultural sales. One of every three acres farmed produces for the export sector.

My home State of Delaware provides an excellent illustration of the importance of foreign trade for our economy. Our largest industry is the chemical industry, which estimates that about 15 percent of its sales and jobs are export supported.

Our second largest industry is agriculture. Delaware farmers sold $43 million worth of agricultural products to overseas markets in the year ending June 30, 1976; more than double the $21 million sold 3 years earlier. During this same period, overseas poultry sales from Delaware increased from $1.6 million to $4.7 million, and feed grain exports tripled from $5.8 million to $17.4 million.

International trade has become big business. We are dealing with tough competition. Often we face Government-subsidized competition. It is not consistent with our practices to have the same kind of Government-industry relationships that are found in such countries as Japan, but there is no reason why our Government apparatus cannot be better organized to help promote export sales and provide protection to domestic industries when necessary.

I am confident our businessmen and workers can compete more than adequately with fair foreign competition. But it is unfair to handicap them with a governmental apparatus that does not function effectively and efficiently.

By providing a single, focal point of authority for the consideration of international trade and investment policies, the creation of the new department will strengthen our voice in international trade negotiations. At present, we have a myriad of voices, some emanating from the Department of the Treasury, some from the Department of State, as well as the President's Special Trade Representative. This weakens the U.S. bargaining position. As a Japanese told me last January when I was in Japan meeting with their trade officials:

> We never know whom in Washington to deal with. Sometimes it is one person and sometimes its another.

There has been concern for some time about the lack of a single, strong office to handle international trade and economic issues. For this reason, 3 years ago, the President's Special Trade Representative was made a member of the Cabinet. This, however, does not go far enough, because the Special Trade Representative simply does not have the institutional basis of power to compete with powerful department heads. Moreover, his ability to act effectively is severely weakened by the fact that so many of the trade authorities are vested in other agencies and offices.

The need for action to streamline and strengthen the Government bureaucracy in the international economic arena has been widely recognized although little action has been taken. The Chairman of the International Trade Commission, Daniel Minchew, has spoken frequently and eloquently about the need to consolidate the offices and agencies dealing in international economic policy. The Asian and Pacific Council of the Chamber of Commerce has long supported a consolidation of the type I am proposing. Mr. Timothy W. Stanley, president of the International Economic Policy Association, writes:

> We had hoped that the operation of the Council on International Economic Policy within the White House, as it first functioned under Peter G. Peterson, would continue to perform the coordinating task for U.S. international economic policies. That has not turned out to be the case; and there is now no overall focal point in the government which can address the long-term international problems facing American business, or indeed, those facing the U.S. economy as a whole in world competition.

In a just-published book entitled "The Making of United States International Economic Policy: Principles, Problems, and Proposals for Reform," Prof. Stephen Cohen of American University discusses the need for a Cabinet-level de-

partment for international trade and commerce and other organizational reforms in the international economic area. Professor Cohen, who has wide experience with the Murphy commission, has been very helpful in developing the legislation which I am offering today.

We are presenting this bill as a vehicle for congressional hearings and discussion. The time to get started is now. Under my bill, the Office of the Special Trade Representative, the Export-Import Bank, and the Overseas Private Investment Corporation would be absorbed into the new Department of International Trade and Investment. From the Commerce Department would come the international business and export control functions. The new Department would take over the administration of the antidumping and countervailing duties statutes from the Treasury Department as well as administration of the customs. It would do the statistical reporting work of the ITC and the administration of section 337 of the Tariff Act of 1930, but the ITC would be retained as an independent agency to make findings of fact about the need for import relief and recommendations for implementing relief. The new Department would also assume the work of the State Department on bilateral trade agreements and commercial opportunities.

I want to make it clear that our bill is intended to serve as a basis for study and that in the hearings process, we will want to consider various means for restructuring the executive branch to provide the most effective procedure for considering and implementing our Nation's international economic policies. I am convinced, however, that restructuring and consolidation is needed and that the creation of a Department of International Trade and Investment is fully consistent with the President's objective of making the Federal bureaucracy less cumbersome and more responsive to our society's needs. A major bureaucratic realinement of the type I am proposing will encounter many obstacles, but if the executive branch works with the Congress in developing this legislation, we can make it succeed.

By Mr. METCALF (for himself, Mr. ABOUREZK, Mr. MCGOVERN, and Mr. METZENBAUM):

S. 1991. A bill to conserve the Nation's energy resources; to the Committee on Energy and National Resources.

RELIABILITY AND CONSERVATION OF ELECTRICAL ENERGY REQUIRES A NATIONAL POWER GRID

Mr. METCALF. Mr. President, on behalf of the senior Senator from South Dakota (Mr. MCGOVERN), the junior Senator from South Dakota (Mr. ABOUREZK), the junior Senator from Ohio (Mr. METZENBAUM), and myself, I introduce for appropriate reference the National Electrical Energy Reliability and Conservation Act of 1977.

Congressman RICHARD L. OTTINGER of New York is introducing companion legislation in the House.

The purpose of this bill is to establish a national power grid and regional bulk power distribution system which will make more efficient use of electrical energy and insure against the kind of blackouts which again paralyzed the Nation's largest city last month.

The idea of a national power grid is not new. But only after a major blackout does it return to the national consciousness.

Our bill would establish a three-member National Power Grid Corporation and regional three-member bulk power supply corporations. The National Power Grid Corporation would establish and operate a national power grid system consisting of electric power generating facilities and very high voltage transmission lines interconnected with the regional corporations.

The National Power Grid Corporation would be authorized to purchase for resale surplus electric power generated by any electric utility. The utilities would purchase needed power from the regional corporations, provided that the utilities agreed to permit use of excess transmission capacity for the purpose of wheeling—that is, transmitting—power to other parts of the system. Rates for transmission would be established on a regional basis.

Mr. President, despite the heat, despite the scare stories of recent years about shortages in electrical energy, this Nation has had an overabundance of electricity. Construction of dozens of plants has been cancelled or delayed because usage has not caught up with projected demand. Even so a number of utilities have had excessive reserves of power. The customers and stockholders of such utilities would both benefit from an integrated transmission system which would use excess capacity to better advantage in meeting the seasonal and daily peaks throughout the country.

Mr. President, let me make it clear that this legislation will increase the direct Federal role in both generation and transmission of electric power. The Federal Government has long been active in both generation and transmission, in our pluralistic electric system, although these Federal G. & T. functions have not increased appreciably in recent years. The best examples of coordinated and reliable G. & T. systems in the country continue to be those with a heavy Federal involvement, in the Tennessee Valley Authority and in the Bonneville Power Administration territory and the related BPA-California transmission system jointly developed by public and private power.

One of the things which this country has learned in the past 12 years is that the investor-owned utilities do not take all the prudent steps to provide for adequate transmission capability and interconnections. Providing the Federal Power Commission with additional authority to require interconnections and beefing up weak links in the transmission network will, I fear, provide more work for lawyers than for construction workers. Utilities would rather tie such issues up in court than do the sensible things that have been done in TVA and BPA country.

Enactment of this bill will authorize the Federal Government to build both transmission lines and generation plants. If the specter of Federal competition causes utilities to do what they should have done anyhow to improve their transmission network that will be fine with me. But the birchrod can be taken out of the closet, the lines can be built by the Federal Government, if that is necessary to bring this Nation's transmission network up to the standards common in other advanced countries.

The bill we are introducing today is practically identical to S. 1208, which I introduced in the 94th Congress. The advisory committee section has been changed to make advisory committees that may be established by the national or regional grid corporations subject to the same rules that now apply to Federal Energy Administration advisory committees, and will apply to most other energy advisory committees after the Department of Energy Organization Act becomes law. The bill has also been changed to apply the Sunshine Act provisions to the three-member national and regional grid corporations.

Mr. President, I ask unanimous consent to insert at this point in the RECORD an editorial, "Preventing Blackouts," which appeared in the July 16 Baltimore Sun, a letter to the editor of the New York Times—July 28—by Dr. Henry Greber of the New Jersey Institute of Technology regarding the need for a national power grid in the United States and the text of the bill:

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

[From the Baltimore Sun, July 16, 1977]

PREVENTING BLACKOUTS

Stronger interconnections between electric power systems might prevent blackouts like the one New York city just suffered. At least so believes Senator Lee Metcalf (D., Mont.), who unsuccessfully introduced intertie legislation in two previous Congresses and plans to introduce a similar bill again this year.

The Metcalf plan would establish a federal corporation to strengthen national and regional electric power grids. The national system, and each of the regional systems, would be governed by boards of directors representing privately and publicly owned utility systems.

These systems would build transmission lines heavy enough to assure that every utility in every region would have backup from other utilities in that region—and that each region, in turn, would have the backup of other regions. In the event of a blackout in a particular city, power would be immediately available from other cities in the regional grid. If the regional grid's capacity became strained, then that grid would have access to power from other regions.

Although the immediate cause of the New York City blackout was lightning striking facilities of the Consolidated Edison Company, the blackout probably would not have occurred if Con Ed had been able to rely on stronger interconnections with other systems. As it happened, the PJM (Pennsylvania-Jersey-Maryland) grid had too little capacity to help New York city; the city's connection with PJM tripped out when the load became too heavy for PJM to carry.

Besides increased reliability, there would be many other advantages to the strong interties. Because electric load patterns vary from one region to another, interties would allow transfers of power from areas where

power is needed the least to areas where it is needed the most. For instance, the Carolinas have heavier summertime electrical needs than Minnesota, because of heavier use of air conditioning in Southern states. But the situation is reversed in the winter when Minnesota's hard, dark winters demand more electric power. With better interregional ties, the two regions could swap power far more efficiently than is now possible—at considerable savings to consumers who would not have to pay for as many generating stations.

Utilities are not enthusiastic about the Metcalf plan because they fear it might mean too much federal interference with their operations. But the New York city blackout has illustrated once again that a geographical hodgepodge of ill-connected and ill-coordinated utilities poses some major risks to consumers. The utilities should either support the Metcalf bill or establish their own stronger interconnections.

[From the New York Times, July 28, 1977]

AFTER THE BLACKOUT: THE HUMAN FAILURES AND THE ELECTRICAL FAILURES

To the Editor:

The cause of the 1977 New York electric power blackout is the same as that of the 1965 blackout, namely too weak interconnections between the New York power system and those of the neighboring utilities. This was pointed out in 1965 but not remedied. Today's large power systems cannot operate independently or with weak interconnections to other power systems because the reserve capacity, usually set at the maximal economically acceptable level, is not sufficient in severe emergencies.

Overseas electrical utilities solved this problem a long time ago, by connecting all power systems of a country into a national integrated power grid. Not only that, but for greater reliability, some national grids are connected with international interconnection lines, so that power can be brought from one end of a country to another end of another country. The idea of a U.S. national electrical power grid has been vigorously opposed by some people to whom it has smacked of nationalization of the electric power industry. Regional power pools have been applied instead, but, unfortunately, turned out to be insufficient for severe emergencies. It is a fair prediction that a third power blackout will occur sooner or later unless we apply the remedy used already by every other industrial country. Let us catch up with the rest of the world—we need a national power grid.

HENRY GREBER,
New Jersey Institute of Technology.

S. 1991

A bill to conserve the Nation's energy resources

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Electrical Energy Reliability and Conservation Act of 1977".

TITLE I—NATIONAL POWER GRID AND REGIONAL BULK POWER DISTRIBUTION

SEC. 101. DEFINITIONS.

For purposes of this Act:

(1) The term "National Grid" means the National Power Grid Corporation, established by section 102.

(2) The term "National Board" means the Board of Directors of the National Grid.

(3) The term "regional corporations" means regional bulk power supply corporations established by the National Grid under section 103.

(4) The term "corporation" means the National Grid or any regional corporation.

(5) The term "regional board" means the board of directors of a regional corporation.

(6) The term "region" means a bulk power supply region established under section 103 (a)(1).

(7) The term "electric utility" means any person or public agency whose functions include the sale of electric power.

SEC. 102. NATIONAL POWER GRID CORPORATION.

(a) There is created a body corporate by the name of the "National Power Grid Corporation" which shall establish and operate a national power grid system. The National Grid shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate, in accordance with section 202, and which shall direct the exercise of all of the functions of the National Grid.

(b) The National Grid shall establish and operate a national power grid system consisting of electric power generating facilities, and a system of very high voltage transmission lines which, to the extent practicable, shall interconnect such generating facilities and the transmission systems of each regional corporation. Such system may be established by constructing generating facilities and transmission lines, or by acquisition of existing facilities and lines under section 105, or both.

(c)(1) The National Grid shall contract to sell electric power to regional corporations at rates which shall be regional throughout the United States and which shall be set at the lowest possible level consistent with sound business principles and the environmental protection requirements of section 201, taking into account the charges necessary to pay the operating expenses of the National Grid (including depreciation) and to amortize the indebtedness of the National Grid.

(2) The National Grid shall provide base load, peaking, or other power to regional corporations to meet requirements of which the National Grid has at least 10 years notice. Any notice of requirements under this paragraph shall be accompanied by an offer to contract for the required power.

(3) The National Grid is authorized to purchase for resale by the National Grid surplus electric power generated by any electric utility on schedules and at rates agreed upon with such electric utility.

SEC. 103. REGIONAL BULK POWER SUPPLY CORPORATIONS.

(a) Subject to section 105(a)(2), the National Grid shall establish by regulation—

(1) a number of bulk power supply regions which in the aggregation shall comprise the entire United States, and

(2) a regional bulk power supply corporation in each such region.

(b) Each regional corporation shall have a board of directors which shall be composed of three members from the region but each from a different State appointed by the National Board with the approval of the President in accordance with section 202, and which shall direct the exercise of all of the powers of such regional corporation. A member of a regional board may be removed by the National Board for cause (including failure to carry out any order of the National Board issued under subsection (f)).

(c)(1)(A) A regional corporation shall be the exclusive marketing agency for the National Grid within the region for which such corporation was established. Any electric utility, publicly or privately owned, may enter into a contract for services with a regional corporation. A regional corporation shall sell electric power to any electric utility which provides the corporation adequate notice of need except in cases of failure of such utility to meet its financial obligations, on proof of fradulent application, or because of willful failure of such utility to comply with wheeling orders under, subparagraph (B) or other requirements of such regional corporation.

(B) A regional corporation may not enter into a contract for services with any electric utility unless such utility agrees to permit (at such times and to such extent as such corporation may order) the use of its excess transmisson capacity for the purpose of wheeling power from facilities of such corporation or of the National Grid to load centers of other electric utilities contracting to purchase electric power from such corporation.

(2) Any transmission lines of any agency the facilities of which are transferred to the corporation under section 105(a)(1) may be transferred by the National Grid to the regional corporation for the region in which such lines are located and shall be operated by such corporation. Each regional corporation shall obtain such transmission capacity, in addition to the capacity acquired under the preceding sentence, as may be necessary to sell electric power generated by the National Grid to each electric utility in the region, to meet emergency demands and to transmit to National Grid transmission lines such electric power as the National Grid may purchase from such utilities. A regional corporation may obtain such additional capacity (A) by lease of or contract for all or part of the capacity of existing transmission lines of electric utilities, (B) by modification of existing facilities of electric utilities, or (C) by construction of new transmission lines by such regional corporation. Any excess transmission capacity of a regional corporation may be made available to electric utilities on a contract carrier basis.

(d) Electric power marketed for the National Grid by the regional corporation shall be sold at a rate equal to the regional rate established by the National Grid under section 102(c)(1), plus a transmission rate charged by such regional corporation. Such transmission rate shall be set at the lowest possible level consistent with sound business principles and the environmental protection requirements of section 201, taking into account the charges necessary to pay the operating expenses of the regional corporation (including depreciation) and to amortize the indebtedness of the regional corporation.

(e) A regional corporation shall have the authority to issue bonds in accordance with section 206, but such bonds shall not be guaranteed by the United States unless issued with the approval of the National Board.

(f) Any person aggrieved or adversely affected by any action of a regional corporation may obtain administrative review of such action by the National Board. The National Board may, on the basis of such review, order the regional board to take appropriate remedial action. The final decisions of the National Board shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5 of the United States Code.

SEC. 104. RESEARCH AND DEVELOPMENT.

(a) The National Grid shall carry out a program of research and development in the area of electric power generation and transmission. In carrying out such program, the National Grid—

(1) may conduct research and development activities directly or through contracts with any person or public agency,

(2) shall coordinate its activities with those of the Energy Research and Development Administration, and to the extent practicable with those of other public and private agencies, and

(3) shall develop priorities for carrying out such program.

In developing priorities under paragraph (3), the National Grid shall give preference to environmental protection and land use research including, but not limited to, underground

high voltage transmission technology, sulfur oxide control, and other technology to improve the performance of fossil fuel plants, development and demonstration of utility corridors, development and demonstration of improved methods for disposing waste heat, and development of alternative methods of electric power generation (including, but not limited to, solar power, wind power, hydropower, biochemical conversion, thermonuclear fusion, magnetohydrodynamics, and fuel cells).

(b)(1) The National Grid shall expend at least 2 percent of its revenues in each fiscal year to carry out the program under this section.

(2) There are authorized to be appropriated to the National Grid for each fiscal year to carry out the program under this section an amount equal to (A) $250,000,000 less (B) the amount the National Grid is required to expend under paragraph (1) to carry out such program.

SEC. 105. TRANSFER OF CERTAIN EXISTING FEDERAL-OWNED FACILITIES.

(a) Effective 180 days after the date of enactment of this Act:

(1) There are transferred to the National Grid all electric power generating and transmission facilities of the following agencies:

(A) Bureau of Reclamation.

(B) Army Corps of Engineers.

(C) Southwestern Power Administration.

(D) Southeastern Power Administration.

(E) Bonneville Power Administration.

(F) Alaska Power Administration.

(2) After amortization, hydroelectric power projects, together with associated Federal transmission facilities, which are transferred to the National Grid under this subsection shall provide financial assistance to water resource development, the reclamation fund, and the basin accounts, in accordance with the laws and procedures under which they were authorized.

(3) The Tennessee Valley Authority shall be designated as the regional corporation for the region consisting of the area in which it operates on the date of such designation.

(b) Title I of this Act shall not apply to the Tennessee Valley Authority.

TITLE I—GENERAL PROVISIONS APPLICABLE TO NATIONAL GRID AND TO REGIONAL CORPORATIONS

SEC. 201. ENVIRONMENTAL PROTECTION.

(a) Each corporation shall be subject to Federal, State, and local environmental standards. For purposes of this subsection, the term "environmental standard" means a law or regulation prescribing a standard or limitation for the purpose of control or abatement of air or water pollution or for the purpose of some other aspect of environmental protection.

(b)(1) Prior to applying to any public agency for authority to construct any proposed facility, the corporation which proposes to construct such facility, shall hold a public hearing, after adequate public notice, and shall allow interested persons to submit comments on such proposal.

(2) Each corporation shall treat all decisions regarding the siting and design of facilities as a significant aspect of land use planning in which all environmental, economic, and technical issues with respect to a facility should be resolved in an integrated fashion. In the resolution of these possibly competing demands such corporation shall give all possible weight to the protection of the environment.

(c) This section shall apply to the Tennessee Valley Authority.

SEC. 202. BOARDS OF DIRECTORS.

(a) Of the members appointed to the board of directors of any corporation, one member shall be representative of the interests of privately owned electric power companies, one member shall be representative of the interests of publicly or cooperatively owned electric utilities, and one member shall be representative of the interests of consumers. Not more than two members of any board may be members of the same political party. Not more than two members of the national board may reside on the same side of the 100th meridian.

(b)(1) Members of the board of directors of each corporation shall be appointed for terms of 6 years, except that the terms of office of the members of any such board first taking office after the date of enactment of this Act, shall expire as designated by the President (or the National Grid in the case of members of a board of a regional corporation) at the time of nomination, one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year, after such date. A successor to a member of a board shall be appointed in the same manner as the original member and shall have a term of office expiring 6 years from the date of the expiration of the term for which his predecessor was appointed. No member may be appointed for all or part of more than two terms.

(2) The members of the National Board first appointed shall be deemed the incorporators of the National Grid and the incorporation shall be held to have been effected from the date of the first meeting of the National Board.

(c) Any member appointed to fill a vacancy in a board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in a board, so long as there shall be two members in office, shall not impair the powers of such board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such board.

(d) The chairman of each board shall be elected by the members thereof.

(e) Each of the members of the National Board shall receive compensation at the rate provided for level II of the Executive Schedule (5 U.S.C. 5313), to be paid by the National Grid. Each of the members of a regional corporations board shall receive compensation at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315), to be paid by such corporation. No member of any such board shall, during his continuance in office, be engaged in any other business.

SEC. 203. OFFICERS AND EMPLOYEES OF CORPORATIONS.

(a) The board of directors of a corporation may without regard to the provisions of title 5, United States Code, governing appointments in the competitive service—

(1) appoint a manager of the corporation who shall be compensated at the provided for level II of the Executive Schedule, and

(2) appoint such other officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general schedule pay rates), define their duties, and require bonds of such of them as such board may designate.

Any appointee of a board of directors may be removed in the discretion of such board.

(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the corporation is a party shall be considered a contract to which the United States is a party.

(2) If work, which if let by contract would be subject to paragraph (1), is done directly by a corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

(c) In the appointment of officials and the selection of employees for a corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permited or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of a board of directors who is found by the President of the United States to be guilty of a violation of this subsection shall be removed from office by the President of the United States, and any appointee of a board of directors who is found by the board to be guilty of a violation of this subsection shall be removed from office by such board.

SEC. 204. CORPORATE POWERS GENERALLY.

(a) Except as otherwise specifically provided in this Act, a corporation shall have the same powers as a District of Columbia nonprofit corporation as under subsections (a), (b), (c), (d), and (e) of section 5 of the District of Columbia Nonprofit Corporation Act, and in addition—

(1) May make contracts to carry out its functions under this Act.

(2) May adopt, amend, and repeal bylaws.

(3) Shall have power to acquire real and personal property for the construction of generating facilities, transmission lines, and other structures and projects.

(4) Shall have power in the name of the United States of America to exercise the right of eminent domain, in accordance with section 207.

(5) Shall have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred in this Act upon such corporation.

(b) In order to enable a corporation to exercise the powers and duties vested in it by this Act—

(1) The exclusive use, possession, and control of all property to be acquired by such corporation in its own name or in the name of the United States of America, are entrusted to such corporation for the purposes of this Act.

(2) The President of the United States is authorized to provide for the transfer to such corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such corporation as stated in this Act.

(c) Each corporation shall maintain its principal office at a place determined by the corporation, within its service area.

(d) Section 101 of the Government Corporation Control Act is amended by inserting "any corporation established under the National Power Grid Act;" after "Tennessee Valley Authority;".

(e) A corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States. A corporation may contract with the Federal Power Commission to participate with the staff of such corporation in system planning and load forecasting.

SEC. 205. ACCOUNTS AND CONTRACTS.

(a) A corporation shall at all times maintain complete and accurate books of accounts. Each corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided by law. All accounts shall be public information and shall be audited annually by the General Accounting Office.

(b) Subject to the other provisions of this Act, a corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the

final settlement of all claims and litigation by or against such corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the accountable officer or employee of such corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the board of directors thereof shall determine to have been necessary to carry out the provisions of this Act.

(c) All purchases and contracts for supplies or services, except for personal services, made by a corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the board of directors thereof shall determine to be adequate to insure notice and opportunity for competition; except that advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for suplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $2,500; in which cases such purchases of supplies or procurement of services may be made in the open market.

In comparing bids and in making awards a board of directors may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

SEC. 206. BONDS FOR FINANCING POWER PROGRAMS.

(a) (1) Each corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") to assist in financing its activities and to refund such bonds.

(2) the aggregate outstanding amount of bonds issued by the National Grid and by all regional corporations shall not exceed $30,000,000,000 at any time. This paragraph shall not apply to bonds issued by a regional corporation and not guaranteed by the United States.

(b) Subject to section 103(e), payment of principal and interest on bonds issued by a corporation under this section shall be guaranteed by the United States. Proceeds realized by a corporation from issuance of such bonds and from power operations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

(c)(1) Subject to paragraph (2), bonds issued by a corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of such corporation in such manner and at such times and redemption premiums, and shall be subject to such other terms and conditions as such corporation may determine.

(2) At least 15 days before selling each issue of bonds under this section (exclusive of any commitment shorter than 1 year) a corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions, and expected rates of interest of the proposed issue in the fullest detail possible and, if the Secretary shall so request, shall consult with him or his designee thereon, but the sale and issuance of such bonds shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance and the maximum rates of interest to be borne by the bonds. If the Secretary of the Treasury does not approve a proposed issue of bonds hereunder within 7 working days following the date on which he is advised of the proposed sale, such corporation may issue to the Secretary interim obligations in the amount of the proposed issue, which the Secretary is directed to purchase. In case such corporation determines that a proposed issue of bonds under this section cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase. Notwithstanding the foregoing provisions of this subsection, obligations issued by a corporation to the Secretary shall not exceed $750,000,000 outstanding at any one time, shall mature on or before 1 year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of 1 year or less as of the close of the month preceding the issuance of the obligations of such corporation. If agreement is not reached within 8 months concerning the issuance of any bonds which the Secretary has failed to approve, such corporation may nevertheless proceed to sell such bonds on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to the Treasury and such interim obligations shall be retired from the proceeds of such bonds. For the purpose of any purchase of a corporation's obligations the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of such corporation's obligations hereunder. A corporation may sell its bonds by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids; may designate trustees, registrars, and paying agents in connection with such bonds and the issuance thereof; may arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms (which audits and reports shall be in addition to those required by sections 105 and 106 of the Government Corporation Control Act) may, subject to any covenants contained in any bond contract, invest the proceeds of any bonds and other funds under its control which derive from or pertain to its power program in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and may perform such other act not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section. Bonds issued by a corporation under this section shall contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such bonds and of their validity.

(d) Bonds issued by a corporation under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of a corporation acquired by them under this section.

(e) Bonds issued by a corporation under this section shall be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes. Interest on such bonds shall not be included in gross income for purposes of any tax imposed by subtitle A of the Internal Revenue Code of 1954.

(f) The section shall apply to bonds of the Tennessee Valley Authority only if such bonds are guaranteed by the United States, in accordance with section 103(e).

SEC. 207. CONDEMNATION PROCEEDINGS.

A corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity or existing facilities referred to in section 103(C)(2)(A) or (B), which, in the opinion of such corporations, are necessary to carry out the provisions of this Act. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled "An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain", approved February 26, 1931 (46 Stat. 1421).

SEC. 208. REPORTS.

(a) Each corporation shall report to the President annually, and the President shall transmit the report to the Congress with such comment and recommendations as he deems appropriate.

(b) Each corporation shall file with the President and with the Congress, in December of each year, a financial statement and a complete report as to the business of such corporation covering the preceding fiscal year.

(c) Reports provided for in subsections (a) and (b) shall also be noticed in the Federal Register.

SEC. 209 ADVISORY COMMITTEES.

(a) Advisory committees established or utilized by the National Grid or by any of its regional corporations shall be governed by Section 17 of the Federal Energy Administration Act of 1974.

(b) This section shall apply to the Tennessee Valley Authority.

SEC. 210. APPLICATION OF GOVERNMENT IN THE SUNSHINE ACT.

The provisions of section 552 b of title 5 of the United States Code shall apply to the Board of Directors of the National Grid, and to the board of directors of each regional corporation established by the National Grid.

By Mr. KENNEDY (for himself, Mr. HART, and Mr. METZENBAUM):

S. 1992. A bill to establish reporting requirements and voluntary energy ef-

ficiency targets for industry, and for other purposes; to the Committee on Energy and Natural Resources.

THE INDUSTRIAL ENERGY CONSERVATION ACT

Mr. KENNEDY. Mr. President, on behalf of myself and Senators HART and METZENBAUM I send to the desk and ask that it be appropriately referred, the Industrial Energy Conservation Act of 1977.

I present this legislation in the expectation that, once passed, it will provide energy savings on a substantial scale for American industry. From the national perspective industrial energy might well be called the last great frontier of conservation, a vast unexplored area filled with promise and potential.

A few simple facts indicate the size of this frontier. To begin with, industry consumes 40 percent of all U.S. energy compared to roughly 25 percent for space heating and 25 percent for transportation. The potential for savings in this sector is truly enormous.

Within industry fully 80 percent of energy use can be traced to just three processes, the raising of steam, the heating of materials and the operation of electric motors. One study, by the Thermo-Electron Corp., estimates that a quarter of the energy used in these three processes can be saved within the next decade. This savings would amount to 4.5 million barrels of oil a day or 10 quads of energy.

Taking the case a step further, consider each of these three familiar processes, beginning with electric motors. There are about 55 million motors in the United States. 11 million of them with a capacity of one horsepower or more. As they are now designed, most of them are, for one reason or another, inefficient. A single device, invented by Cravens Wanlass of California, can be applied to all of them with a savings of electricity of between 20 and 30 percent.

Assuming the most conservative estimate of the savings potential, 20 percent, incorporating the Wanlass device in all motors would save 1.2 million barrels of oil a day, approximately the daily production of the Alaskan North Slope oil field. These savings have been scientifically verified and mass production is simply a matter of industry acceptance.

As for boilers and furnaces, which raise steam and heat materials such as steel and wood pulp, we find that huge savings can be achieved by focusing on a very small number of consuming units. There are only about 9,000 boilers at 3,000 industrial plants which use more than 50,000 pounds of steam per hour and there are only about 6,000 furnaces which use 50 million Btu's of energy per hour. However these 15,000 units consume 16 percent of all energy used in the United States.

I want to point out that in all our talk about energy conservation and in all our legislation no attempt has been made to achieve efficiency in these boilers and furnaces. We have taken steps to bring maximum efficiency to the 120 million cars and trucks driven in the United States. We have begun to make more energy-efficient the 45 million appliances in most common use. And we have begun to set energy standards for America's 102 million dwellings. In other words we have already taken on the most difficult tasks which affect millions of people several times over. Incredibly, little has been said about the efficiency of these 9,000 boilers and 6,000 furnaces even though they account for 16 percent of the energy consumed in the United States and 35 percent of that consumed in industry. Improving the efficiency of these boilers alone, using technology already available, could save a million barrels a day—the same savings which will be achieved in 1985 by the improved efficiency in automobiles.

It should be clear by now not only that large savings are possible but that these savings can be achieved by concentrating on a relatively small number of targets and inventions. Even the most conservative estimates indicate the potential gains exceed the maximum savings attainable by turning down the thermostats in residences. Tens of millions of Americans could not offset the loss of the energy put into the air by industry.

How is this possible? Why has the largest target been overlooked? Should we conclude that industry enjoys favored status or blame timidity on the part of Government? Is it possible to set reasonable standards for energy efficiency?

I think we should understand industry is no more wasteful than the rest of us. In fact since the oil embargo industry has a better conservation record than other sectors of society. But the fact remains that we have all been living in a fool's paradise in which energy has been priced well below its replacement cost. We all grew comfortable in bad habits which must now be corrected. Other countries, and the industries in those countries, heard the conservation message long ago simply because they did not have at their disposal the wealth of oil, gas, and coal of the United States. After all the dire warnings, we are still the leading energy producer in the world. But we are also the leading consumers by a wide margin.

I focus today on industry not because it is more deserving of censure or special treatment but simply because industry consumes so much energy. When we have squeezed all we can from space heating and all we can out of transportation and all we can out of the utilities, the potential for savings in industry remains as the last frontier of conservation. My purpose is not to point the finger of blame but to begin what will be a long process of achieving greater energy efficiency in industry.

Other nations have already traveled this road. In West Germany, five energy-intensive industry categories—food; chemicals; petroleum and coal products; stone, clay, glass, and concrete products; and primary metals—use around 35 percent less energy per dollar of sales than the same industries in the United States. Overall the Swedish and West German economies provide similar standards of living but with energy consumption two-thirds of our own, with much of the savings coming from industry.

As for the administration's plan, the President has drawn back from the hard task of conserving energy in industry through efficiency standards similar to those for cars and appliances. Industrial energy conservation has long been considered so difficult an area that the President chose to influence conservation through the marketplace effect of higher energy prices and the incentive of a tax credit, rather than seeking efficiency directly. Therefore the national energy plan calls for a crude oil equalization tax and an industrial utilization tax to raise prices and a 10-percent tax credit for investments in energy conservation by industry.

Yet while I understand the President's reluctance to enter what has been portrayed as a thicket of difficulty, I believe we have stopped short and have chosen the wrong course when we rely exclusively on a tax credit. All too frequently the Government tries to correct a national problem with the incentive of a tax credit. Tax credits and deductions constitute the "loopholes" against which the President campaigned; this year's credit is next year's loophole. Time and again tax credits have a way of rewarding those who would have undertaken the desired conduct anyway. Can there be any doubt that when faced with rising energy costs companies will undertake the easiest conservation measures, "cream off" the prime opportunities and also get a tax credit to boot? Energy Users News, a daily publication for industry, devotes two pages of each edition solely to report on conservation already now going on in industry—the very same conduct that, in many cases, will be rewarded with a tax credit.

I consider it appropriate to ask industry to achieve additional savings beyond that which might be reached through tax incentives alone. Consuming as much energy as it does, industry and particularly the major corporations have a national obligation as well as an obligation to its stockholders, to reduce its fuel consumption. I have written the Industrial Energy Conservation Act to achieve this purpose.

The act was written in its present form after hearings by the Energy Subcommittee of the Joint Economic Committee which I chair. Witnesses included Roger Sant, former Assistant Administrator of FEA for Conservation, Dr. George Hatsopolos, president of the Thermo-Electron Corp. and Charles Berg, former Chief Engineer of the Federal Power Commission. These experts agreed that simple energy efficiency measurements could be established for boilers and furnaces and would be useful.

All believe that substantial savings are possible. Dr. Berg cautioned against so designing standards as to stifle innovation. Dr. Karl M. Willenbrock, dean of engineering and applied science at Southern Methodist University stressed the need to involve industry cooperatively in achieving its goals. These concerns are reflected in this bill and would be further developed in legislative history.

I have considered carefully the possibility of including in this bill mandatory efficiency standards for steam raising and heating of stock. Senator METZENBAUM adopted this approach in an

amendment to the Energy Policy and Conservation Act providing mandatory standards for electric motors. This was approved by the Energy and Natural Resources Committee on July 29. I support Senator METZENBAUM's approach in this case. As with appliances manufacturers now covered by EPCA, the improvements in electric motors can be achieved at the manufacturer level with relative ease, affecting a limited number of companies. Testimony before the Joint Economic Committee supports this amendment.

It may also be necessary to establish efficiency standards for steam raising and the heating of stock—that is for the entire process or function, not just the equipment used. Standards could be written using simple second-law calculations. However, at this time, I have decided not to ask for mandatory standards. If, in the next few years, it appears likely that other methods will achieve the necessary savings, mandatory standards will not be necessary.

In order to avoid imposing standards on so large a portion of the Nation's energy consumption, the Congress should be assured that industry is making rapid progress. This can be done if industry and the Federal Energy Administration agree on voluntary targets both for each industry, distributed company-by-company, and for the use of fuel in large boilers and furnaces. In order to make this possible the major energy consuming companies must report energy use both for total consumption and for boilers and furnaces. Because energy consumption by the top 1,000 energy users is so great and the savings potential so high, these steps must be taken as a minimum. Only then will industry avoid Federal standards.

My bill, which is a substitute part D of title III of the Energy Policy and Conservation Act—EPCA—continue the present authority of the Administrator of the Federal Energy Administration to set voluntary efficiency targets industry-by-industry for the 10 most energy-intensive industries and makes possible similar targets in the second group of 10. It also broadens the reporting requirement in EPCA to include all companies using more than 1 trillion Btu's a year, approximately 950 companies. These companies would now report on a unified basis, using standard units of measurements and would report in such a way as to reveal the efficiency of their total use of energy. In addition—and this is the major addition to EPCA—the act would provide the Administrator with authority to establish efficiency targets for two industrial processes and functions: The raising steam and the heating stock.

The act contains relatively high thresholds for the inclusion of boilers and furnaces in its requirements—50,000 pounds of steam per hour for the raising of steam, 50 million Btu's of energy per hour for the heating of stock. This insures that only about 9,000 boilers and 6,000 furnaces will be covered.

Provisions of the act insure that no regulations would be issued without a long and thorough process of consultation with industry, public hearings, and citizen participation.

The section of the act providing for improved reporting of energy use is needed immediately to assist the Administrator in establishing energy efficiency targets. The reporting EPCA is so broad and general as to provide little useful information. It is clearly inadequate and cannot even be used as the basis for determining whether a particular company is, indeed, meeting the voluntary targets established jointly by FEA and industry. The Industrial Energy Conservation Act would provide for reporting in more detail. To be precise, the act would require that reporting be at least to the four-digit level—meaning that it reports energy use company-by-company—and that it reports on "second law efficiency"—meaning that reporting will be made not only for energy used but for energy wasted.

No claim can be made that this information cannot be obtained. From 1973 to 1975 the Federal Energy Administration conducted an energy audit of the 10 largest energy-consuming industries and achieved information of the quantity and quality which the act would mandate.

Mr. President, the last question I asked a few minutes ago was "Is it possible to establish reasonable targets of energy efficiency?" I recognize that this is the critical question.

Until recently it seemed impossible to set efficiency targets for a large portion of industry. There were too many processes, too many companies, and too many sites, we were told. No simple measurements were available.

This need not be the case however. Let me first quote at length from an article in the May 1977 Fortune magazine by Tom Alexander entitled appropriately, "Industry Can Save Energy Without Stunting Its Growth":

> Over the long haul, the greatest promise for reducing industrial energy consumption lies in applying some long-known but astonishingly neglected insights that are implicit in the physicists' second law of thermodynamics. Most of the calculations of how much energy industry could save have been based exclusively on the *first* law of thermodynamics, the physical law that says that energy is neither created nor destroyed, but only transformed. Efficiency, in the eyes of the law, is the ratio between the useful work that a device performs and the amount of energy put into it.
>
> What the second law addresses, however, is the *quality* of energy. That law holds, in effect, that thermal energy is a bit like water power: it can only power man's devices when it can flow from a region of high potential—high altitude in the case of water, high temperature in the case of thermal energy—to a region of lower potential. The implications, according to the second law, is that the actual usefulness of any given BTU of energy is not a constant but a variable quantity. As soon as a BTU of energy is released in the combustion process, it immediately begins to flow "downhill": that is, to dissipate itself into the cool surrounding environment where it becomes gradually lost to mankind's purposes. . . .

The analogy of a wasted waterfall:

> Typically, most industrial processes waste high amounts of the potential available work that the second law says is in every molecule of fuel. More than 45 percent of the energy used by American industry, for example, goes into making "process steam," which is used at a typical temperature of around 350° F. By first-law standards, the boilers in which that steam is made are pretty efficient devices; roughly 85 percent of the BTU's initially in the fossil fuel wind up in the steam.
>
> But by second-law standards, these systems are scandalously inefficient, since they will exploit no more than about 25 percent of the fuel's available work. The reason is that the fuel molecules themselves—whether oil, natural gas, or coal—burn at a temperature around 3,600°F. To immediately dilute that wonderful, high-quality heat to the level of 350° is lamentably wasteful. It is the equivalent of building a 250-foot-high dam at the bottom of a 1,000-foot waterfall, and using only the 250-foot "head" in the man-made lake to generate electricity, instead of constructing penstocks to harness the far more potent 1,000-foot plunge of water from the top of the waterfall. It is possible, therefore, to measure energy.

According to industrial engineers at MIT and Dr. George Hatsopolos, president of the Thermo-Electron Corp., it is possible to measure the efficiency of the three industrial processes mentioned above—raising steam, heating stock and providing motive power and electricity—by one simple formula based on the second law of thermodynamics. This formula has universal applicability and it can be varied to achieve any degree of efficiency. As with automobile standards it can be increased each year, providing ample opportunity for industry to convert without penalty.

The Industrial Energy Conservation Act is not, however, dependent upon the utilization of this one second law formula. The Administrator of FEA could offer industry alternative methods of achieving energy efficiency, for example, a certain level of second law efficiency or its equivalent by whatever means a company could devise. There would be adequate opportunity for innovation. For example, rather than improve the efficiency of an existing system of making paper or steel by adding cogeneration of electricity, a company could completely redesign its production system, for example, adopting fluidized bed combustion or an entirely new ceramic making system which saves an equivalent amount of energy.

This bill is a reasonable approach to exploration on the last major frontier of conservation. It falls well short of the requirements on industry in automobiles, appliances, and housing. The voluntary approach has the virtue of encouraging particular industries to adopt changes which single member companies might reject. But for those who object to even this limited step, as being, perhaps, an unnecessary burden, we should remember our experience with the automobile industry. When efficiency standards for cars were first proposed, some said it would weaken the industry and create unemployment. In the meantime, fuel efficient foreign cars were grabbing an increasing share of the market until today 20 percent of our automobiles are made abroad. Instead of ruining the industry, mandatory standards may have saved it. Sales this year are higher than ever and for the first time in years it is possible American manufacturers may recapture a portion of the market instead of watching it slip away. Energy efficiency all across the board will make

American industry more competitive. Over a 5- to 10-year span it will also reduce domestic prices. Benefits so attractive cannot and should not be overlooked.

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

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

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That this Act may be cited as the "Industrial Energy Conservation Act of 1977".

INDUSTRIAL ENERGY CONSERVATION

SEC. 2. (a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341 et seq.) is hereby amended by striking Part D of Title III of said Act, and inserting in lieu thereof the following:

Part D—INDUSTRIAL ENERGY CONSERVATION

DEFINITIONS

SEC. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

(5) The term "energy-consuming corporation" means a corporation which consumes at least one trillion British thermal units of energy per year.

(6) The term "plant" is an economic unit at a single physical location where industrial processes are performed. A plant may also be referred to as a factory, a mill, or an establishment.

(7) The term "heating function" means an operation conducted in a plant that performs one or more of the following functions: the raising of steam to a given pressure and temperature; the heating of material to a given temperature; or, either of the above two functions in combination with the generation of electricity. The term "heating function" does not include steam raising at less than 50,000 lbs. of steam per hour per plant or the direct-combustion heating of materials with a furnace which consumes less than 50 million British thermal units of energy per hour.

(8) The term "heating function efficiency" means the ratio of the minimum available work necessary to perform the heating function to the available work of the actual fuel used to complete the heating function.

PROGRAM

SEC. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry;

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries;

(3) to establish for energy-consuming corporations national unit operation efficiency targets for each industrial unit operation.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

SEC. 373. (a) The Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. (b) Within each industry so identified, the Administrator shall identify each energy consuming corporation.

INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

SEC. 374. (a) Within one year after the date of enactment of this Act, and periodically thereafter, the Administrator shall establish industrial energy efficiency improvement targets for each of the 10 most energy-consumptive industries identified under section 373. Such targets—

(1) shall be based upon the best available information;

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve no later than January 1, 1980 and January 1, 1982 respectively; and such dates thereafter as the Administrator may determine; and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372;

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies;

(3) any special circumstances or characteristics of the industry for which the target is being set; and,

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372 (1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information;

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve no later than January 1, 1980 and January 1, 1982 respectively; and such dates thereafter as the Administrator may determine; and,

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent; and,

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

NATIONAL HEATING FUNCTION EFFICIENCY IMPROVEMENT TARGETS

SEC. 375 (a) Within one year of the enactment of this Act, the Administrator shall set a national heating function efficiency improvement target or targets for each heating function. Such target or targets

(1) shall be based upon the best available information;

(2) shall be established at the level which represents the maximum feasible improvement in efficiencies of heating functions which can be achieved by January 1, 1982 and may include such variances as may be appropriate to each industry; and,

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target. (b) In determining maximum feasible improvement under subsection (a), the Administrator shall consider—

(1) the objectives of the program established under section 372; and,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies.

(c) Any target established under subsection (a) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent; and,

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

SEC. 376. (a) The Chief executive officer (or individual designated by such officer) of each energy-consuming corporation which is identified by the Administrator pursuant to section 373 (b), shall report to the Administrator not later than 270 days after the enactment of this Act, and semi-annually thereafter, on the progress which such corporation has made in improving its energy efficiency and its heating function efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement targets set under sections 374 and 375.

(b) Each report to the Administrator shall be based on data aggregated to the two-digit and four-digit SIC classifications from plant reporting forms in a manner to be determined by the Administrator.

(c) Each plant shall file a plant reporting form with its parent corporation. Each plant reporting form will be retained by the plant's parent corporation for at least 5 years. Such forms will be made available to the Administrator upon request.

(d) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

(e) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (c), a simple plant reporting form which shall be designed in such a way as to avoid imposing an undue burden on any plant.

(f) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator.

(2) a statement of the average heating function efficiency in the United States for each heating function and a summary of the progress made toward the establishment of or the achievement of national heating function and industrial efficiency improvement targets; and,

(2) recommendations to the Congress as to how additional improvements might be achieved.

General Provisions

Sec. 377. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 376 (a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency, heating process efficiency, and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and the establishment of any national heating process efficiency improvement target or targets under section 375, and prior to publication of any reporting requirements under section 376.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to Committees of Congress upon request of such Committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 375 or for failure to meet any national heating function efficiency improvement target established under section 378 of this Act.

(g) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

By Mr. CRANSTON (for himself, Mr. PELL, and Mr. STONE):

S. 1993. A bill to amend title XVIII of the Social Security Act to enable certain individuals to enroll in the insurance program established by such title; to the Committee on Finance.

BUY-IN AMENDMENT TO MEDICARE

Mr. CRANSTON. Mr. President, today I introduce a bill designed to enable certain individuals who have not yet reached age 65 to "buy-in" to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

I am delighted the distinguished Senator from Rhode Island (Mr. PELL) and the distinguished Senator from Florida (Mr. STONE) have joined me in cosponsoring this legislation.

Mr. President, this bill is designed to enable certain individuals who have not yet reached age 65 to "buy-in" to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

The need for this legislation stems from the fact that medicare eligibility does not begin until age 65—except for those disabled social security beneficiaries and, in a limited fashion, individuals suffering from chronic kidney disease to whom medicare coverage was extended as the result of Public Law 92-603—yet many older persons lose their group health coverage when they retire before the age of 65. They are forced to enroll in high cost individual health insurance policies with extremely limited and inadequate coverage—and even those are almost never available to individuals over 60 years old—or to forego any coverage whatsoever, gambling that they will stay healthy at least until they reach 65 when they become eligible for medicare.

Even if they are able to purchase coverage, it is at a prohibitive cost and in many cases excludes coverage of preexisting conditions. I am unaware of any health insurance currently available for this age group which is anywhere near as good a buy as medicare.

This is an intolerable situation, Mr. President, and I believe that we can effectively counteract it through the enactment of the measure we are proposing today. The amendment provides that if one spouse is over 65 and enrolled in medicare, the other spouse, if at least 60 years old, would be able to enroll in the program and receive equivalent benefits at a cost actuarially determined. In addition, these benefits would be made available to those receiving social security benefits who are 62 years of age and over; a divorced mother or widow between the ages of 60 and 64 if she is caring for a child under age 18 who is receiving payments based on the worker's record; the dependent parents between the ages of 60 and 64 of a deceased worker; and individuals between the ages of 60 and 64 who are retired on social security disability.

Persons in this last category whose disability persists for 2 years are eligible for medicare coverage now under existing law. Under the amendment I am offering today, these individuals would be able to "buy-in" to medicare without waiting 2 years if they are over 60 years old.

Mr. President, my proposal would allow each of these categories of individuals for a premium equal to that paid by individuals over the age of 65, currently permitted to buy-in to medicare, to enroll in part A of medicare—the hospital insurance benefits—if they also enroll in part B supplementary medical insurance.

The cost of the medicare premium is readjusted every July by the Secretary to take into account the cost of an increase in living, if any.

As of July 1, 1977, the monthly premium for part A coverage for those over 65 was changed to $54 and for part B to $7.70. My amendment would set the part B premium at 300 percent of the current part B premium, two-thirds of which the Government presently underwrites for current medicare beneficiaries. Under my amendment, this Federal subsidy would not apply to those individuals under 65 who buy-in to medicare.

I would also like to point out that this cost is applicable for the first year of implementation of the buy-in program only. My amendment provides that in December of the first year of effectiveness—which is the earliest possible time when sufficient information will be available—the Secretary of HEW shall determine on an actuarial basis the actual costs of both part A and part B coverage for this group of beneficiaries and set the premiums for the subsequent years accordingly. The premiums which my amendment sets for the first year of operation are based on what has been determined as an actuarial base for individuals over the age of 65. The individuals who could buy-in under my amendment are a substantially younger group and it is expected that their health care costs will be commensurately lower, and their premiums in all probability would be less in the years following the first year of implementation.

Thus, the monthly cost for those covered by my amendment in the first year would be $77.10. This is hardly a bargain, but it does offer an option to many individuals between the ages of 60 and 65 who otherwise would be unable to purchase health insurance at any price. These individuals would be permitted to enroll in these programs any time they are or become eligible during a 90-day period following receipt of notice of eligibility from the Social Security Commissioner.

The amendment mandates that any individual "buying-in" to medicare must "buy-in" to both part A and part B in order to reduce the potential excessive utilization of part A that might occur if that were the only coverage available to an individual. With coverage of both hospital benefits and ambulatory care benefits, the individual will have an opportunity to utilize the most cost effective and appropriate means of treatment for his or her ailment. Otherwise, if enrolled only under part A, an incentive might be created for overutilization of the most expensive kinds of in-hospital services. This specific provision is identical to the one added by Public Law 92-603 to the Social Security Act to govern "buy-in" for those over 65 not covered by social security.

Premium costs after the first year of operation for part A and part B coverage would be set at a level which the Secretary determines, based on the estimated cost of health insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. This premium would be adjusted annually to reflect both the experience of the group and any changes in costs. It is conceivable that experience will show the part A premium and the part B premium should be less than that which is proposed for the first year of operation of this program.

As I indicated that figure is based on the premium charged by HEW after July 1, 1977, to individuals over 65 who wish to enroll in medicare and who are

not eligible for social security. The group we propose to enroll is a younger and, presumably, healthier group so one would expect the premium to be less.

HISTORY OF BUY-IN AMENDMENT

This buy-in provision was originally included in the Social Security Act Amendments of 1972 (H.R. 1) as reported from the Finance Committee.

Though in 1972 the Senate Finance Committee clearly recognized the need for this extension of medicare coverage, and recognized that it would provide important health insurance benefits at no cost to the Government, this provision was deleted from the bill in conference, and not included in the final version of the Social Security Amendments of 1972 as signed by the President.

At that time, I was advised by the Finance Committee that the major factor in its deletion was simply the lack of opportunity, given the time constraints under which we were all operating in the concluding days of that Congress, for the House to evaluate this Senate provision thoroughly.

Subsequently, in the 93d Congress, the Finance Committee again recommended support for the "buy-in" provision when I offered it as an amendment to H.R. 3153 and it was adopted by the Senate during floor consideration of that act. Unfortunately, the House was unwilling to come to conference on H.R. 3153 and the bill was allowed to die with adjournment of the 93d Congress.

In December 1975, it was adopted by the Senate as a floor amendment to H.R. 10284—the medicare amendments—but once again this provision was dropped in conference with the House. In this instance, the House refused to accept the medicare buy-in provision on the grounds they would only include in the conference report provisions facing an immediate deadline for termination, and "because it would tend to put medicare into competition with private health insurance carriers, because it raises the question of why social security beneficiaries below age 60 should not also be included".

I believe, however, this provision will not have that effect. Most individuals under 60 are employed or are dependents of an employed person and are eligible for group health coverage through their employer or spouse at premium rates considerably less than those of medicare. Many of those who are not eligible for health care through employment coverage may be eligible for medicaid. In all, I believe a small number of individuals under 60 would find buying in to medicare an attractive proposition economically.

I was pleased that the distinguished Senator from Louisiana (Mr. LONG) received assurances from Mr. ULLMAN, chairman of the Committee on Ways and Means, at the time the two Houses were reaching an agreement on H.R. 10284 that he would look at this provision very carefully so that the questions raised by the House can be answered fully.

Mr. President, adequate health care coverage is a matter of the greatest concern to Americans reaching retirement age. This legislation addresses that concern and provides a mechanism for a substantial number of particularly hard-pressed older Americans to take full advantage of the benefits under the medicare program without any additional cost to the Federal taxpayer.

The Senate having already passed this measure three times, I would hope that this fourth effort, if successful, will convince the other body of the Senate's commitment to bringing better health care to our senior citizens.

Mr. President, I ask unanimous consent that an excerpt describing these provisions from the Senate Finance Committee Report on H.R. 1, the Social Security Amendments of 1972 (S. Rept. No. 92-1230)—this excerpt is footnoted to point out the changes made in the amendment offered today and the one offered in 1972, changes necessitated by the increase in the costs of health care over the past 5 years, which are further evidence of the hardships which the population affected by my amendment have been faced with in the intervening 5 years—be printed in the RECORD at this point.

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

MEDICARE COVERAGE FOR CERTAIN INDIVIDUALS AGED 60-64

(Sec. 214 of the bill)

Present law provides hospital insurance protection for persons aged 65 and over who are insured or deemed to be insured for cash benefits under the social security or railroad retirement programs. Essentially, all persons aged 65 and over are eligible to enroll for medical insurance (part B) without regard to insured status. The committee has approved a provision in the House a bill which would permit persons aged 65 and over who are not insured or deemed insured for cash benefits to enroll in part A at a premium rate equal to the cost of their protection.

The committee is concerned that many social security and railroad retirement cash beneficiaries aged 60-64 and spouses aged 60-64 of medicare beneficiaries find it difficult to obtain adequate private health insurance at a rate which they can afford. Frequently these older persons—retired workers, wives, husbands, widows, widowers, mothers, parents, brothers and sisters, for example—have been dependent for health insurance protection on their own group coverage or that of a related worker who is now retired or deceased. It is a difficult task for such older persons to secure comparable protection at affordable cost when they are not connected with the labor force.

The committee, therefore, has added to the House bill a provision which would make medicare protection (both part A and part B) available on an optional basis at cost to spouses aged 60-64 of medicare beneficiaries; others aged 60-64 who are entitled to retirement, wife's, husband's, widow's, widower's, mother's, parent's, or brother's and sister's benefits under social security and the railroad retirement programs; and disability beneficiaries aged 60-64 not otherwise eligible for medicare because they have not been entitled to cash disability benefits for 24 months. The availability of medicare protection would be limited to persons aged 60-64 because the committee believes that people under age 60 who are not disabled generally have relatively little difficulty in obtaining private health insurance. About 6 million persons aged 60-64 would be potentially eligible to enroll for medicare as spouses of medicare beneficiaries or as beneficiaries entitled to the benefits specified above.

Persons who elect to avail themselves of medicare protection under this provision would pay the full cost of such protection. Enrollees would pay a monthly part A premium based upon the estimated cost of hospital insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any; such premium would be $33 a month through June 1974[1] and would be adjusted for each 12-month period thereafter to reflect both the experience of the group and any changes in costs.

The monthly premium for persons in the group who enroll for part B would be twice[2] the premium paid by an individual who has attained age 65 until June 1974 and would be adjusted for each 12-month period thereafter to reflect the estimated cost of supplementary medical insurance protection for persons eligible to enroll under the provisions plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. Aliens who have been in the United States less than 5 years and persons who have been convicted of certain subversive crimes would be excluded from participation under this provision, just as they are excluded from enrolling for supplementary medical insurance.

The committee bill would require, as it requires under the provision in the bill making medicare protection available to uninsured persons aged 65 and over, that in order for persons to be eligible to enroll for hospital insurance they must be enrolled for supplementary medical insurance. If a person terminates his supplementary medical insurance, his hospital insurance coverage under this provision would be automatically terminated effective the same date as his supplementary medical insurance termination. The committee believes that such a restriction is necessary to reduce the possibility of excessive utilization of the more expensive hospital insurance coverage as might occur if an individual were enrolled for hospital insurance (covering primarily institutional care) but not for supplementary medical insurance (covering primarily outpatient care).

Coverage would be initially available as of July 1, 1973, to enrolled eligible persons.

By Mr. CRANSTON:

S. 1994. A bill to amend title XVIII of the Social Security Act so as to permit payment under the medicare program for certain hospital services provided in Veterans' Administration hospitals; to the Committee on Finance.

MEDICARE REIMBURSEMENT TO VA HOSPITALS FOR PERSONS TREATED UNDER A MISTAKEN, GOOD FAITH BELIEF THAT THEY WERE ELIGIBLE VETERANS

Mr. CRANSTON. Mr. President, today I introduce a bill that would permit Medicare reimbursement to a Veterans' Administration hospital under certain

[1] In the amendment offered today, this premium would be $54 through June 1979.

[2] In the amendment offered today, the monthly premium for persons in the group who enroll for part B would be three times the premium paid by those over 65 who buy-in to the program. In 1972, the cost of the part B premium represented approximately one-half the cost of the care provided on an actuarial basis. Since that time, however, legislation has been passed which limits the increase in the part B premium to a rate comparable to the cost of living increase given social security beneficiaries. Since the cost of health care has risen at a higher rate than the cost of living, the part B premium now represents approximately one-third of the total costs of the program.

unusual circumstances. These circumstances would be those rare instances where an individual eligible for medicare is treated in a VA hospital on the good faith assumption, both on the individual's part and that of the hospital, that he is a veteran who is eligible for VA hospital care under title 38 of the United States Code. Under title 38, if this situation occurs, the patient or his estate is liable to reimburse the VA for the cost incurred, and under the Social Security Act, Medicare cannot reimburse either the patient or his estate for the care provided in a VA or other Federal hospital. Thus the patient must pay the full costs of his hospital care even though he is entitled to medicare coverage.

A little over a year ago, this situation was brought to my attention by the family of a medicare beneficiary which had been billed for a substantial sum covering his hospitalization in a VA hospital. As chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I joined with the then committee chairman (Mr. HARTKE) in writing to the chairman of the Finance Committee and its Subcommittee on Health, Senator LONG and Senator TALMADGE, respectively, to bring this situation to their attention and proposing that a very tightly drawn amendment which would permit the payment of these costs be considered during the Finance Committee's meeting on the medicare deadline amendments (H.R. 10284). I was most grateful that the committee agreed to do this and accepted our amendment in H.R. 10284 as reported.

Mr. President, I ask unanimous consent that the text of the letter former Senator HARTKE, my predecessor as chairman of the Committee on Veterans' Affairs, and I sent to Senator LONG and Senator TALMADGE, as well as an excerpt from the committee report describing this provision—pages 12–13—be printed in the RECORD at this point.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., December 3, 1975.

Honorable RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

Honorable HERMAN E. TALMADGE,
Chairman, Subcommittee on Health, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMEN: Recently a case was brought to our attention of an elderly Medicare beneficiary who was admitted to a VA hospital for emergent care prior to a determination of veteran eligibility, who received care there for several months, and who was ultimately determined ineligible for such care. Because of the error, which was made without any intention to defraud, the patient's estate is now being billed by the Veterans Administration for $5,000. Section 1814 (c) of the Social Security Act leaves no alternative to the VA, and the patient's estate is liable for the debt under title 38, United States Code.

To avoid any reoccurrence of this unfortunate situation, we recommend that your Committee consider the adoption of an amendment to H.R. 10284 which would permit reimbursement to a VA hospital for hospital care rendered in carefully defined circumstances such as that of the case brought to our attention. We are advised this situation occurs rarely and that the costs would be negligible.

Enclosed is a draft amendment (made retroactive to cover the above case) for such consideration during Committee markup of the House bill.

Your assistance in adding this provision to H.R. 10284 would be very much appreciated.

With warm best wishes.

Sincerely,

VANCE HARTKE,
Chairman, Committee on Veterans Affairs.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

(Section 7 of the Bill)

Under present law, payments may not be made under part A of medicare to any Federal providers of services, such as a Veterans' Administration hospital, where such institution is otherwise obligated by law to render care at public expense.

The committee has had its attention called to circumstances in which an individual, entitled to part A benefit, was admitted to a veterans' hospital with both the hospital and the beneficiary believing the patient was eligible for such care and was subsequently found to be ineligible for care as a veteran. Following such a determination, the Veterans' Administration is required, by law, to recover the costs of such care from the patient (or his estate, if the patient is deceased).

The committee amendment would permit payment by the medicare program to VA hospitals for care rendered to a part A beneficiary in certain circumstances. Payment may be made only when (1) the beneficiary is admitted to the VA facility in the reasonable belief that he is entitled to have service furnished to him by the VA free of charge; (2) the authorities of such hospital and the beneficiary acted in good faith in making such admission; (3) that the beneficiary is, in fact, not entitled to care in the facility free of charge; and (4) the care was provided while those operating the facility remained unaware of the fact that the individual was not eligible for VA benefit or before it was medically feasible to arrange a transfer or discharge.

Payment for services would be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) reasonable costs for such services (as estimated by the Secretary following consultation with the Chief Medical Director of the Veterans' Administration).

Mr. CRANSTON. Mr. President, I was very disappointed, however, that in efforts to reach agreement on H.R. 10284 between the House and Senate, the House refused to accept this provision.

The House suggested in explaining its refusal:

It might be appropriate to afford relief, as part of veterans' legislation, for all such persons found not to be VA eligible—not just those who are eligible for medicare. In addition, it would seem more appropriate for the VA to administer such a provision rather than complicating the medicare law and its administration.

The VA statute prohibits the VA from providing care to anyone except a veteran, and then only when it is in conjunction with a service-connected injury, or when the veteran is unable to defray the costs of hospitalization. What the House seems to be proposing is that the VA hospitals open their doors to everyone. The VA does provide emergency services to anyone, regardless of eligibility, as a humanitarian service. However, to do what the House suggests could seriously detract from the VA's mandate to care for the service-connected disabilities of veterans, could result in the VA being unable to provide care to eligible veterans on a timely basis, and would establish an unfortunate precedent insofar as utilization of VA health care facilities.

Therefore, I am hopeful the House will reconsider their position on this provision at this time. The distinguished Senator from Louisiana (Mr. LONG) assured me 2 years ago when the House first refused to accept this amendment that he would work with me later on to convince the House of the merit of this provision.

By Mr. ABOUREZK:

S. 1995. A bill to grant admission to the United States to certain nationals of Chile and the spouses, children, and parents of such nationals, and for other purposes; to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, today I am introducing a bill to grant Chilean political refugees asylum in this country. A comparable bill, H.R. 14372, was introduced in the House by Congressman OTTINGER on April 4, and reintroduced on May 23, 1977. The purpose of this legislation is to establish an initial 2 year asylum period for Chilean political refugees who are in the United States or another country, as well as for dissidents remaining in Chile. After 2 years, a redetermination of status is made by the Attorney General.

The problem of Chilean refugees is acute and grows greater all the time. After the brutal coup in Chile in September of 1973 and the establishment of the military dictatorship of General Pinochet, 30,000 people fled the country. Amnesty international has stated that over 1,500 Chileans have disappeared since the coup and another 5,000 have been executed. Moreover, many of the 20,000 people who have disappeared from Argentina in the past 2½ years have been Chileans.

The United States has established parole programs for Chileans in the past; unfortunately they have been limited and largely fruitless efforts. The first program for 400 heads of families was established in June 1975, to assist Chileans in Chile. It was not until October 1976, that the first refugees under the program began arriving. The second parole program, established in October 1976, is for Chilean refugees in Argentina. As of this May, no Chilean refugee has entered the United States under this current program.

These programs have failed primarily because of the long waiting period from the time of application to the time of entry. For example, Chileans who fled to Argentina were told to register with the Office of the United Nations High Commission for Refugees before they filed their parole applications. Unfortunately this office has been burgled twice and the files containing the identity and the location of Chilean refugees stolen. Several Chileans disappeared after their files were taken. Thus, it is understandable why Chileans are hesitant now to register with the High Commissioner's Office.

Other countries have opened their doors to Chilean refugees. Foremost among them is our neighbor, Canada, which sends representatives of the Federal Ministry of Manpower and Immigration to Chile, Argentina, and other Latin American Countries to find, relocate, and provide Canadian employment opportunities for Chilean refugees. Thus far, Canada had admitted 6,000 Chilean refugees, 2½ times the number of Chilean refugees as has the United States. France has also admitted 4,000 Chilean refugees; Italy, Sweden, and Switzerland have admitted fewer numbers.

The United States as well must provide refuge for these persecuted Chileans. Indeed our responsibility to these people is great. Were it not for the covert intervention by the U.S. Government and American corporations to destabilitize the democratically elected government of President Allende, there might never have been a Chilean refugee problem.

The following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

Section 1. (a) Provides for the admission of any National of Chile as a Non-Immigrant if a Consular Officer determines that:

(1) If in Chile is being persecuted or in danger of persecution;

(2) If not in Chile, would be persecuted or in danger of persecution if returned to Chile;

(3) Further findings must be made that he is not excludable from the U.S., except relating to eligibility for a non-immigrant visa;

(4) Must apply for admission within one year of date of enactment of this Act.

(b) Provides for the admission for a 2 year period, with authorization to accept employment. After a 2 year period, if alien has not acquired permanent residence and a determination is made that he would be in danger of persecution if he returned to Chile, he will be accorded permanent resident status as of the date of his arrival in the U.S. notwithstanding the fact that he is not in possession of the appropriate documents.

Section 2. Relates to Nationals of Chile in the U.S. and provides the same relief as Section 1 of the bill for such applicants, provided they apply within a 1 year period following enactment of the Act.

Section 3. Related to the similar treatment for spouses, children or parents of a national of Chile (admission or adjustment of status to permanent resident).

Section 4. Exempts any person admitted under the Act from the numerical limitations imposed by or contained in the Immigration and Nationality Act.

Section 5. Places responsibility on the Attorney General for disseminating information to possible beneficiaries concerning application for treatment under the Act. Especially the limitations on the time in which they must apply for admission or adjustment of status.

Section 6. Provides that the technical definitions used in the Immigration and Nationality Act are applicable to this Act.

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

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

S. 1995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 214 of the Immigration and Nationality Act, any alien who is a national of Chile and is not in the United States shall be issued a nonimmigrant visa and admitted to the United States as a nonimmigrant if the consular office determines—

(1) that such alien—

(A) if in Chile, is being persecuted or is in danger of persecution on account of his political opinions; or

(B) if not in Chile, would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile;

(2) that such alien is not excludable from the United States under section 212(a) of the Immigration and Nationality Act without regard to paragraph (26) of such section; and

(3) that such alien has applied for such admission during the one-year period which begins on the day after the date of enactment of this Act.

(b) (1) The admission to the United States of any alien under this Act shall be for the two-year period which begins on the date of such admission. During such period any alien admitted under this Act shall be allowed to accept employment. Not later than the date on which such two-year period expires, the Attorney General shall examine the case of such alien and, if the Attorney General determines—

(A) that such alien has not acquired permanent residence; and

(B) in the case of an alien other than an alien subject to this subsection by reason of section 3(a)(1) of this Act, that such alien would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile,

such alien shall be placed in the custody of the Immigration and Naturalization Service, and shall thereupon be inspected and examined for admission into the United States, and his case dealt with, in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act.

(2) Any such alien who, pursuant to paragraph (1), is found, upon inspection by an immigration officer or after hearing before a special inquiry officer, to have been and to be admissible as an immigrant at the time of his arrival in the United States and at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) of the Immigration and Nationality Act, shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

SEC. 2. (a) Notwithstanding section 241 of the Immigration and Nationality Act, any alien who is a national of Chile and is in the United States on the date of the enactment of this Act shall be treated in accordance with subsection (b) if the Attorney General determines—

(1) that such alien would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile;

(2) that such alien is not excludable from the United States under section 212(a) of the Immigration and Nationality Act without regard to paragraph (20) or (26) of such section;

(3) that such alien has applied for such treatment during the one-year period which begins on the day after the date of enactment of this Act.

(b) (1) An alien subject to this subsection shall be examined by the Attorney General in accordance with paragraph (2) not later than the earlier of—

(A) in the case of an alien holding a valid nonimmigrant visa, the date on which the visa expires;

(B) in the case of an alien paroled into the United States by the Attorney General, the date on which such parole status expires; or

(C) the date two years after the date on which such alien makes application under subsection (a)(3).

(2) The Attorney General shall examine the case of an alien subject to this subsection and, if the Attorney General determines—

(A) that such alien has not acquired permanent residence; and

(B) in the case of an alien other than an alien subject to this subsection by reason of section 3(a)(2) of this Act, that such alien would be persecuted or be in danger of persecution on account of his political opinions if he returned to Chile,

such alien shall be placed in the custody of the Immigration and Naturalization Service, and shall thereupon be inspected and examined for admission into the United States, and his case dealt with, in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act.

(3) Any such alien who, pursuant to paragraph (2), is found, upon inspection by an immigration officer or after hearing before a special inquiry officer, to have been and to be admissible as an immigrant at the time of his arrival in the United States and at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) of the Immigration and Nationality Act shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

SEC. 3. (a) Notwithstanding section 214 or 241 of the Immigration and Nationality Act—

(1) any alien who satisfies the requirements of subsection (b) and is not in the United States shall be issued a nonimmigrant visa, admitted to the United States as a nonimmigrant, and treated in accordance with subsection (b) of the first section of this Act; and

(2) any alien who satisfies the requirements of subsection (b) and is in the United States shall be treated in accordance with subsection (b) of section 2 of this Act.

(b) An alien satisfies the requirements of this subsection if the Attorney General determines—

(1) that such alien is the spouse, a child, or a parent of a national of Chile who has been admitted to the United States under subsection (a) of the first section of this Act or with respect to whom determinations described in subsection (a) of section 2 of this Act have been made;

(2) that such alien—

(A) is a national of Chile but does not satisfy the requirements for admission under subsection (a) of the first section of this Act or for receiving treatment in accordance with subsection (b) of section 2 of this Act; or

(B) is not a national of Chile; and

(3) such alien has applied for treatment under this section within the one-year period which begins on the day after the date of enactment of this Act.

SEC. 4. Any alien who acquires permanent residence under this Act shall not be chargeable for purposes of the numerical limitations contained in section 201 or 202 of the Immigration and Nationality Act.

SEC. 5. The Attorney General shall take such steps as he deems appropriate to provide that any alien who is a national of Chile or the spouse, a child, or a parent of a national of Chile shall be informed of the treatment for which application may be made under this Act before such alien is otherwise excluded from admission into, or deported from, the United States.

SEC. 6. The definitions contained in sections 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act.

By Mr. STAFFORD (for himself, Mr. LEAHY, Mr. FORD, Mr. MELCHER, and Mr. LAXALT):

S. 1996. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for nonregular service, and for other purposes; to the Committee on Armed Services.

Mr. STAFFORD. Mr. President, I am introducing legislation with Senators LEAHY, FORD, MELCHER, and LAXALT that would amend section 1448 of title 10, United States Code, to provide survivor benefit protection during the latter portion of the Reserve Forces retiree's annuity vulnerability. It provides that in case of death of a Guard or Reserve member who has completed 20 or more years of qualifying service before his 60th birthday, the benefit that would be paid had he lived to that age would be immediately payable to his dependent if he was at least 55 when he died. A lesser amount, based upon a reduction of 2 percent a year for each year between his age at time of death and age 55, would become payable at the time he would have become 55 had he lived. Passage of this legislation will greatly alleviate the hardships created for dependents and will correct this serious defect that was not addressed when the survivor benefits plan was authorized in 1972. Priority should be given to amend this unjust law that leaves a Guard or Reserve widow with no entitlement to an annuity otherwise rightfully earned.

The need for this legislation arises as a result of the peculiarities of the present laws governing Reserve Forces title III retirement and the laws governing eligibility for the survivor benefits plan—SBP.

The present law requires the Guardsman and Reservist to meet the following criteria to be eligible for title III military retirement pay;

First. Complete 20 satisfactory years of Federal military service, of which the last 8 must be served in Guard or Reserve status, and

Second. Reach age 60 before retirement benefits begin.

It is in the period after completing the over 20 years military service requirements and while awaiting age 60 that the Reserve Forces member's rights to survivor benefits are unprotected. During this period, the Guardsman or Reservist has no options available to him to protect his 20 or more years' investment in earned military retirement. Should he live to age 60, he begins receiving retirement pay and his dependents are immediately and fully covered under the survivor benefits plan. However, should he die before 60, all pay and survivor benefits are totally lost.

Active force retirees do not face this problem. Regardless of age, on the first day of retirement they immediately begin to draw retirement pay and their dependents are immediately covered under the provisions of the SBP. It is to correct this inequity for Reserve Forces survivor dependents to qualify for SBP benefits legislation is required.

Mr. President: I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1448 of title 10, United States Code, is amended by adding new subsection (e) to read as follows:

"(e) If a person who would otherwise have become entitled to retired pay under chapter 67 of this title dies before attaining the age at which he would have been entitled, upon application, to such retired pay, the Secretary concerned shall pay to a widow or widower described in section 1450 of this title 55 percent of—

"(1) the retired pay to which the member or former member would have been entitled if he had all of the qualifications described in section 1331 of this title and had applied therefor, if he was at least 55 years of age when he died; or

"(2) the retired pay to which he would have become entitled under clause (1) if he had lived until age 55, commencing on the date he would have attained that age, and based upon the pay rates then in effect. However, if the member or former member was at least 50 but less than 55 years of age at the time of his death, the surviving widow or widower may elect to receive an annuity to commence immediately, based upon the pay rates in effect on the date of the member's or former member's death reduced by one-sixth of 1 percent for each full month between his age on the date of his death and age 55, or the annuity described in the first sentence of this clause. A person entitled to an annuity under this subsection is considered to be a dependent of a member or former member who was at the time of his death entitled to retired pay.".

By Mr. INOUYE:

S. 1997. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation which would allow a taxpayer who adopts a child to receive a deduction from gross income for the medical, legal, and other expenses incurred in the adoption process. As you are aware, natural parents are permitted to deduct the medical expenses incurred in the birth of their child. Since these expenses are oftentimes substantial, natural parents receive sizable deductions. The costs of adopting a child have risen steadily, and according to recent figures, it is not unlikely that these costs are becoming prohibitive and discouraging many from adopting a child. Therefore, I believe that adoptive parents should be given treatment similar to that afforded natural parents. This measure would provide an incentive to adoption by permitting a maximum deduction of $1,000 for expenses incurred in the adoption of a child.

I would like to point out that the administration has announced its support for legislation which addresses all aspects of the problems created when a child is separated from the family unit. Consistent with this position, the administration recently proposed the allowance of subsidies to low- or moderate-income families wishing to adopt so-called hard-to-place foster children.

In addition, President Carter has indicated his desire to support legislation providing alternatives to abortion. The controversy over the administration's support of cutting medicaid funds for abortion makes it imperative that such alternatives be provided. Assisting adoptive parents in meeting the special costs associated with adoption would create one alternative by assuring expectant mothers who do not want to or who cannot raise their children that their offspring will be placed in a healthy and beneficial adoptive situation.

I believe that this measure will encourage the elimination of the barriers to adoption and supplement efforts by the administration to reexamine and reform existing policies that harm rather than maintain stable, supportive family units. My proposed bill will help to accelerate the placement process for homeless children and reduce some costs incurred by State and local government agencies. Furthermore, this measure would close the gap in the recent administration proposal, which provides subsidies only to individuals adopting hard-to-place babies. It says nothing about subsidizing people to adopt healthy, young children. My proposed bill would allow a deduction to persons adopting both healthy and hard-to-place children.

This bill has received the endorsement of numerous adoption agencies throughout the Nation. I urge speedy consideration of this measure as we put together a comprehensive and much needed adoption opportunity plan.

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

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

S. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Adoption Opportunity Act".

SEC. 2. (a) Part VII of subchapter V of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the amount of any adoption expenses (as defined in subsection (b)) paid by the taxpayer during the taxable year.

"(b) DEFINITION.—As used in this section, the term 'adoption expenses' means expenses which pertain to the legal adoption of a child by the taxpayer, and which are incurred in accordance with applicable State or Federal laws, including social or adoption agency fees, court costs, attorneys' fees, and other necessary costs and fees in connection with the adoption of the child.

"(c) LIMITATIONS.—

"(1) DOLLAR LIMITATIONS.—The amount of the deduction allowable under this section with respect to any one child shall not exceed $1,000.

"(2) EXPENSES OTHERWISE ALLOWABLE AS DEDUCTIONS.—No amount which is allowable as a deduction under any other provision of this part shall be allowed as a deduction under this section."

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out

"Sec. 221. Cross references."

and inserting in lieu thereof

"Sec. 221. Adoption expenses.
"Sec. 222. Cross references."

SEC. 3. The amendments made by this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

By Mr. HELMS (for himself, Mr. PERCY, Mr. STEVENSON, and Mr. TOWER):

S. 2003. A bill to amend the Bretton Woods Agreements Act and the Gold Reserve Act, and for other purposes; to the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

UNFINISHED BUSINESS THAT CONGRESS SHOULD NOT FURTHER DELAY

Mr. HELMS. Mr. President, today I am introducing a bill which will take care of some unfinished business.

Last year, when the Senate was trying to wrap up the 94th Congress, the Banking Committee, of which I was a member, sent to the full Senate, the Bretton Woods Agreement Amendments of 1976, H.R. 13955.

This bill was primarily a change in Federal law to ratify a change in the charter of the International Monetary Fund and to increase our subscription to the IMF.

The House passed the bill on July 27, and the Senate Foreign Relations and Banking Committees subsequently held hearings on it. During the course of our deliberations, it was agreed to adopt a number of amendments to the bill. In fact, all the amendments were agreed to by the leadership on both sides and by all Senators working on the bill.

Unfortunately, and at the last minute, it became clear that there was not enough time to send an amended bill back to the House and go through the unanimous-consent procedures needed for the House of Representatives to pass the Senate-amended bill and send it to the President for his signature.

There was only time enough to do one thing: to take up the bill as approved by the House of Representatives, and send an unamended bill to the President.

That is what finally happened, and it was agreed that the Senate amendments would be acted upon during the 95th Congress.

The bill I introduce today has all those amendments except an amendment offered by the junior Senator from Illinois (Mr. STEVENSON), dealing with the Exchange Stabilization Fund. I understand he is developing separate legislation concerning that agency which will be acted upon by the Senate Banking Committee later this year.

The bill I introduce today contains four key provisions. The first is a technical improvement relating a requirement that congressional approval be granted before added IMF gold could be used for the IMF Trust Fund for less developed countries, and requiring congressional approval before any new trust fund be established that would specifically aid a single member or group of IMF members.

Primarily, this is a clarification of the Rousselot amendment adopted in the House Banking Committee and subsequently enacted. Congressman ROUSSELOT endorses this technical change in the language.

The second portion of the bill would direct the President to provide appropriate information to the committees of Congress having oversight responsibilities in the area of monetary and international policy. This amendment was offered by the distinguished senior Senator from Illinois (Mr. PERCY), who stated:

The purpose of the amendment is to improve the potential of Congressional oversight of U.S. Governmental activities regarding U.S. participation in the international monetary system and U.S. foreign economic policy. The growth of economic interdependence and the increasing size of the international sector of the U.S. economy necessitate greater Congressional concern to these policy areas. For example, in this Congress we have dealt with Bretton Woods, commodity agreements, energy problems and the OECD financial safety net.

Senator PERCY has told me that there have been no problems in recent months with obtaining needed information, but such language might be important in any future investigation Congress may pursue concerning international monetary matters.

The third area of the bill concerns the maturity of loans made by the Exchange Stabilization Fund. The language would require that the President provide Congress with a written determination any time money is used from the ESF for loans in excess of 6-month terms.

An added provision in this portion of the bill would amend the Gold Reserve Act to specify that the purpose of the exchange stabilization is not exclusively to "stabilize the exchange value of the dollar." That, of course, is something that we automatically gave up when our Government adopted irresponsible fiscal and monetary policies in the late 1960's and into the 1970's that put the lie to the phrase, "sound as a dollar."

The final portion of the bill would effectively repeal the "Joint resolution to assure uniform value to the coins and currencies of the United States," of June 5, 1933. This joint resolution was adopted when President Roosevelt devalued the dollar and it served to eliminate the private ownership of gold and the enforceability of gold clause contracts.

In 1973, Congress restored the right of American citizens to hold gold, but Congress did not move to allow a contract between two citizens specifying payment in gold or in dollars measured in gold to be enforceable in the courts. That oversight will now be rectified. Last year, I received letters indicating that the Federal Reserve Board Chairman and the Secretary of the Treasury had no objections to this provision. Gold clause contracts are technically nothing more than a type of commodity contract that is presently fully legal in every other commodity except gold. This reform simply makes the law consistent.

Mr. President, my staff has worked closely with officials of the Treasury Department and this language has been cleared by officials there. I hope we can get speedy clearance from the Office of Management and Budget and subsequent passage.

I specifically wish to give credit to former Congressman Tom Rees, who capably served as chairman of the International Monetary Policy Subcommittee of the House Banking and Currency Committee. Mr. Rees is now in private law practice here in Washington, but devoted much of his valuable time in helping get these loose ends tied up.

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

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

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Financial Reform Amendments of 1977".

SEC. 2. The Bretton Woods Agreements Act (22 U.S.C. 286—286k-2) is amended—

(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

(2) (A) by inserting "(a)" immediately after "Sec. 14."; and

(B) by inserting at the end of section 14 the following new subsection:

"(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information."

SEC. 3. (a) Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended—

(1) by striking out "to and" immediately following "necessary" and inserting in lieu thereof a comma; and

(2) by inserting immediately after "International Monetary Fund" the following: "regarding orderly exchange arrangements and a stable system of exchange rates: *Provided, however,* That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the Presi-

dent provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months".

(b) Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by striking out the phrase "stabilizing the exchange value of the dollar" in the fourth sentence thereof and inserting in lieu thereof the phrase "the purposes prescribed by this section".

SEC. 4. The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

Mr. ROBERT C. BYRD, subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from North Carolina (Mr. HELMS), relative to the Bretton Woods Agreements and the Gold Reserve Act, and for other purposes, be jointly referred to the Committees on Foreign Relations and Banking, Housing, and Urban Affairs.

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

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 123, to amend the Social Security Act.

S. 129

At the request of Mr. INOUYE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 129, to restore wartime recognition of certain Filipino veterans of World War II.

S. 794

At the request of Mr. BAYH, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 794, the Juvenile Delinquency in the Schools Act of 1977.

S. 972

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Delaware (Mr. BIDEN), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 972, the Small Business Development Center Act.

S. 1835

At the request of Mr. HUDDLESTON, the Senator from Iowa (Mr. CLARK), the Senator from North Dakota (Mr. YOUNG), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Iowa (Mr. CULVER) were added as cosponsors of S. 1835, relating to the needs of agriculture and rural development in the United States.

S. 1836

At the request of Mr. HUDDLESTON, the Senator from Iowa (Mr. CLARK) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 1836, relating to railroad transportation and to postpone reduction of certain rail service.

S. 1960

At the request of Mr. HEINZ, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1960, relating to the creation of a national endowment for children's television.

S. 1962

At the request of Mr. HUDDLESTON, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1962, to amend the Communications Act of 1934.

S. 1968

At the request of Mr. RIBICOFF, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1968, to establish the Long Island Sound heritage.

SENATE JOINT RESOLUTION 48

At the request of Mr. CHURCH, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of Senate Joint Resolution 48, providing the authority for the President to call a White House Conference on Aging in 1981.

SENATE RESOLUTION 238—SUBMISSION OF A RESOLUTION CALLING FOR A WORLD ASSEMBLY ON AGING AND A WORLD YEAR ON AGING

(Referred to the Committee on Foreign Relations.)

Mr. CHURCH (for himself, Mr. CHILES, Mr. BROOKE, Mr. DECONCINI, and Mr. PERCY) submitted the following resolution:

SENATE RESOLUTION 238

Whereas the United Nations has within recent years intensified its research and information exchange activities relating to aging;

Whereas a question relating to broadening the United Nations program on aging will be considered this autumn at the thirty-second session of the General Assembly;

Whereas the discussion of such question will offer a timely forum for discussion of a proposal for a World Year on Aging and an intergovernmental Assembly on Aging;

Whereas recent United Nations reports provide impressive evidence that aging populations worldwide will cause widespread economic and social dislocations unless extensive and informed efforts are made to take full advantage of the beneficial and far-reaching opportunities afforded by an increase in the proportion of older persons; and

Whereas there is reason to believe that widespread support for a World Assembly and World Year on Aging can be developed among member nations of the United Nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations represented at the United Nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. CHURCH. Mr. President, on behalf of myself and Senators CHILES, BROOKE, DECONCINI, and PERCY, I submit today for appropriate reference a sense of the Senate resolution asking that the U.S. delegation to the U.N. be instructed to work with other U.N. member nations to support a World Year on Aging and a World Assembly on Aging in 1982.

My proposal is timely, I believe, for the following reasons:

First. The United Nations has within recent years taken encouraging actions to broaden its research and information program on aging. A question to expand that effort will be considered this autumn at the 32d session of the General Assembly. The forum thus provided should serve as an appropriate vehicle for discussion of a World Year and a World Assembly on Aging.

Second. U.N. research efforts and reports clearly show, in my opinion, that public policy issues related to aging require an international exchange of information and proposals for individual cooperative action.

I emphasize that the World Assembly would be a meeting of nations; it would not be an exchange of information by research scientists. That purpose is admirably dealt with by triennial meetings of the International Congress of Gerontology. What is also needed in communication among political leaders and government specialists who, more and more, will find that the "aging" population throughout the world has already begun to cause significant and sometimes startling social and economic changes requiring immediate and long-term attention and action.

Mr. President, I ask unanimous consent that a summary of significant facts from recent U.N. reports be printed at this point to document the urgency of the situation, now and in the future.

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

SOME REASONS FOR INCREASED INTERNATIONAL ATTENTION TO AGING

(Excerpts from U.N. Publication: "Questions of the Elderly and the Aged: Conditions, Needs and Services." August 28, 1973)

1. Projected increase in population of persons 65 and over (in millions):

		More developed regions	Less developed regions
1970	189	105	84
1980	246	130	117
Increase	56	25	33
Percentage increase	30.2	23.7	38.2

2. The approximate 291 million persons 60 years and over, in 1970, throughout the world, will increase to nearly 585 million by the year 2000 or more than 100 percent, while the world's population as a whole will increase from 3.6 to 6.5 thousand million, or by approximately 80 percent. It is significant to note that for the more developed regions the increase in the population as a whole will be 33 percent, from 1970 to 2000, while the 60 and over population will increase by 50 percent. *For the less developed regions the proportionate increase of the older population is even more pronounced, while a 98 percent increase is anticipated for the total population over the same time period, the increase in the 60 and over population will be approximately 158 percent.* (emphasis added).

3. It would appear from the demographic overall view of the world population trends in Chapter II, as well as the critical conditions and potential resources found among aging populations throughout the world, that aging may be one of the crucial social policy questions of the latter third of the twentieth century.

4. A policy on aging . . . is essential as the world approaches the 21st century, in order to assure the increasing numbers and proportions of older persons their basic human rights, full participation and contribution to, as well as protection in, the society of which they are a part. In addition, the rapid increase of older people suggests a need for responsive policies which may help to compensate for the problems arising from this change in the population structure. For example, existing health and social services must be reassessed and new centers must be established and personnel must be trained faster than the increase in the industrialization leading to migration, particularly in developing countries, may threaten older people and hinder the development of modern technology in rural areas. Such a situation calls for anticipatory policy steps providing policy protection for rural elderly and economic policies for balanced development of rural areas.

A MORE RECENT WORD ABOUT ELDERLY IN URBAN CENTERS

The U.N. Secretary-General's progress report on the Question of the Elderly and the Aged in September 1976 reviewed the status of the aging in slums and uncontrolled settlements (so-called squatter villages) and predicted the "with rapid expansion of these areas, the number and proportion of older adults are expected to rise."

In Bogotá, for example, the aging comprised about 3.8 percent of the total city population and 3.3 percent of the squatter population. But projections through 1985 foresee a rise of more than 300 percent among the elderly squatter population in fewer than 20 years.

The report added:

"Migration of older persons to slums and squatter settlements appears to be predominantly that of older widows, and this phenomenon seems to occur in all areas of the world."

Mr. CHURCH. I have suggested that 1982 be designated for the World Year and World Assembly on Aging because only one such U.N. function can be conducted in any one year. Similar conferences will be held on children in 1979, women in 1980, and the disabled in 1981.

There is good reason to believe, in my view, other nations are becoming increasingly aware of the need for the action I propose today. I believe that the United States should join with them in a joint effort culminating the 1982 conference and year long program of activities.

For very compelling reasons in this Nation and so many others, I urge early and favorable action upon this resolution.

SENATE RESOLUTION 239—ORIGINAL RESOLUTION REPORTED RELATING TO SEVERANCE PAY FOR CERTAIN COMMITTEE STAFF MEMBERS

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

SENATE RESOLUTION 239

Resolved, That for purposes of this resolution—

(1) the terms "eligible staff member", "new committee", and "transition period" have the meanings given to them by section 701 of Senate Resolution 4, 95th Congress, agreed to February 4 (legislative day, February 1), 1977; and

(2) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated solely and directly as a result of the reorganization of the staff of a new committee caused by such Senate Resolution 4, and who is certified as a displaced staff member by the chairman (and, with respect to a minority employee, by the ranking minority member) of such new committee.

SEC. 2. The chairman (and, with respect to a minority employee, the ranking minority member) of each new committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee within ten days after the day on which this resolution is agreed to (or, in the case of a displaced staff member whose service terminates after such day, within ten days after the termination of his service).

SEC. 3. (a) Subject to the provisions of this section and sections 4 and 5, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to receive a gross amount of severance pay (based on a thirty day month) equal to seven days' pay for each year of service as an employee of the Senate (and a ratable portion in the case of service for part of a year). Such application shall be made not later than the 30th day after the day on which this resolution is agreed to (or, in the case of a displaced staff member whose service terminates after such day, not later than the 30th day after the termination of his service).

(b) The maximum number of days' pay which may be taken into account in computing the gross amount of severance pay to which a displaced staff member is entitled under subsection (a) shall be 90 days' pay.

(c) For purposes of subsection (a)—

(1) in prorating severance pay for part of a year, any service insufficient to calculate severance pay for a full day shall be disregarded; and

(2) active military service shall be treated as service as an employee of the Senate if such active military service was immediately preceded and followed (except for periods of 30 days or less) by service as an employee of the Senate.

(d) Severance pay of a displaced staff member (1) shall be computed on the basis of the per annum rate of compensation of such displaced staff member on the date of termination of his service, (2) shall commence on the day after the termination of the transition period, and (3) shall be paid on a monthly basis from the contingent fund of the Senate, upon vouchers approved by the Chairman of the Committee on Rules and Administraton, until such displaced staff member has been paid the gross amount to which he is entitled under this resolution.

SEC. 4. (a) A displaced staff member shall not be entitled to severance pay under section 3 unless he has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding the termination of his service.

(b) A displaced staff member shall not be entitled to severance pay under section 3 if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter; or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for non-regular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(c) A displaced staff member shall not be paid severance pay under section 3 for any day during the period of his entitlement to severance pay on which he—

(1) is an employee of the United States or the Government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred to in subsection (b) (2),

and each such day shall be subtracted from the number of days for which such displaced staff member is entitled to severance pay under section 3.

(d) A displaced staff member shall be entitled to severance pay under section 3 only if the Committee on Rules and Administration is satisfied that the displaced staff member has made reasonable efforts to obtain employment comparable to his employment as a member of a committee staff, but has been unable to do so.

SEC. 5. (a) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received or receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such amount (or portion).

(b) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (a)(2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within 60 days after the close of such month (or, if later, within 60 days after the date on which this resolution is agreed to), the gross amount of severance pay to which such displaced staff member is otherwise entitled under section 3 shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

SEC. 6. In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next kin of such deceased displaced staff member.

SEC. 7. Severance pay paid under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to the benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

SEC. 8. Upon the enactment of S. 1153, 95th Congress, or similar legislation abolishing the Joint Committee on Atomic Energy and providing for disposition of the staff of such Joint Committee, the provisions of this resolution shall apply with respect to the displaced staff members of such Joint Committee. In applying this resolution for such purpose, the terms "eligible staff member", "new committee", and "transition period" have the meanings given to them by S. 1153 or such similar legislation.

SEC. 9. Upon the termination of the temporary Select Committee on Nutrition and Human Needs on December 31, 1977, pursuant to section 106 (e) of Senate Resolution 4, 95th Congress, each eligible staff member of such Select Committee who is serving as a member of its staff on such date shall be treated as a displaced staff member and the provisions of this resolution (other than section 2) shall apply with respect to such displaced staff member. In applying this resolution for such purpose, the transition period shall be treated as ending on December 31, 1977.

SENATE RESOLUTION 240—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 5027

(Referred to the Committee on the Budget.)

Mr. CRANSTON, from the Committee on Veterans' Affairs, reported the following original resolution:

SENATE RESOLUTION 240

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5027 as reported. Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Failure to grant the waiver would impair the ability of the Veterans' Administration to provide necessary medical services to veterans.

The major provisions of H.R. 5027 as reported (1) make clarifying amendments in title 38, United States Code, provisions under which the Veterans' Administration may furnish contract health care services through private facilities, (2) extend and improve the Veterans' Administration's authority to enter into new, or extend certain expiring, special-pay agreements with eligible physicians and dentists in order to overcome difficulties in recruiting and retaining highly qualified health care professionals; and (3) establish new health-care programs for eligible veterans in the areas of readjustment professional counseling, drug and alcohol disabilities, and preventive health care for veterans with service-connected disabilities.

Enactment of the provisions regarding the Veterans' Administration contract health care authority (sections 101–103) are urgently needed to resolve satisfactorily substantial problems which have arisen in the implementation of Public Law 94–581, the Veterans Omnibus Health Care Act of 1976, enacted on October 21, 1976, which restricted the Veterans' Administration's authority to provide contract health care services through private facilities. The major difficulty in this connection pertains to the revocation under Public Law 94–581 of the VA's authority to furnish contract outpatient services to approximately 90,000 severely disabled veterans whose eligibility for such services was based on their entitlement to regular aid and attendance or a "housebound" allowance.

A subcommittee of the Veterans' Affairs Committee held a hearing on these provisions on April 27, 1977. During this hearing, however, the subcommittee determined that certain information—such as the numbers of veterans affected by the various restrictions on contract health care imposed by Public Law 94–581, the number of such veterans who could be provided contract care under other provisions of title 38, and data regarding the provision of contract care in Alaska, Hawaii, and Puerto Rico—not then available, and requiring difficult and extensive research by the Veterans' Administration, was necessary before the final form of the measure could be determined. That information was not finally received by the Committee until June 21, 1977, after the May 15 reporting deadline had passed.

The Congressional Budget Office has advised that no fiscal year 1978 costs will be incurred under the contract health care provisions of the bill.

The provisions extending and improving the Veterans' Administration's physician and dentist special-pay authority (sections 201 and 202) derive from Administration-requested legislation which, despite numerous Committee requests to the new Administration, was not submitted to the Congress until June 27, 1977. A subcommittee hearing was promptly held on this legislation on July 1. Failure to grant this waiver would impair the Veterans' Administration's ability to overcome problems in the recruitment and retention of highly-skilled professionals during fiscal year 1978, at great detriment to the quality of health care required to be provided to veterans under existing law.

All provisions of this bill which, according to the Congressional Budget Office estimates, involve any costs in fiscal year 1978 were specifically described in the Veterans' Affairs Committee's March 15, 1977, report to the Budget Committee. The total estimated costs of the bill as reported in fiscal year 1978 is $26.97 million, an amount within and consistent with the functional allocation to the Veterans' Affairs Committee under the First Concurrent Resolution on the Budget for Fiscal Year 1978 (S. Con. Res. 19). Moreover, the bill as reported will not significantly affect the Congressional Budget nor delay the appropriations process.

This waiver of section 402(a) of the Congressional Budget Act of 1974 is only the second such waiver which has been requested by the Committee on Veterans' Affairs during the past years.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5027 as reported by the Committee on Veterans' Affairs.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN ASSISTANCE APPROPRIATIONS—H.R. 7797

AMENDMENTS NOS. 771 THROUGH 809

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

Mr. ALLEN. Mr. President, I submit for printing a series of 39 amendments which I intend to propose to H.R. 7797, a bill making appropriations for foreign assistance and related programs.

I ask unanimous consent that the amendments and a brief explanation of each be printed in the RECORD at this point.

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

AMENDMENTS TO H.R. 7797

FOREIGN RELATIONS AND RELATED PROGRAMS APPROPRIATIONS ACT

Number and Title

771—Human Rights Amendment.
772—Limitation of Third World Loans to Thirty-Year Term.
773—Short-Term Development Assistance Loans.
774—Limitations on Expenditures for International Organizations and Programs.
775—Sahel Amendment.
776—Drug Programs in Bolivia.
777—Unobligated Balances Subject to Authorizations Acts.
778—Deobligated Funds Returned to the Treasury.
779—Red China Amendment.
780—$222,000,000 Reduction in Security Supporting Assistance.
781—Earmarkings to Effect $222,000,000 Reduction.
782—Arab State Reductions.
783—African State Reductions.
784—Limitation on Loan Authority.
785—AID Entertainment and Representational Expenses.
786—Overseas Private Investment Corporation Entertainment.
787—Prohibition on Direct or Indirect Assistance to Certain Repressive Governments.
788—Limitation on AID Entertainment.
789—Limitation on AID Representational Expenses.
790—Military Assistance Programs Entertainment Liaison.
791—General Human Rights Amendment.
792—Direct Assistance to Mozambique or Angola.
793—Limitation on Aid to Panama.
794—Reduction in Contribution to Asian Development Fund.
795—Prohibition on Asian Development Bank Loans to Vietnam, Cambodia, or Laos.
796—Reduction in Inter-American Development Bank Replenishment Contribution.
797—Prohibition on Inter-American Bank Loans to Cuba.
798—Reduction in Replenishment Contribution to the International Bank for Reconstruction and Development.
799—Limitation on Loans to the Republic of Panama.
800—Reduction in Contribution to the International Finance Corporation.
801—Reduction in Replenishment for the International Development Association.
802—Sense of the Congress Provision on International Financial Contribution.
803—Percentage Limitation on Contributions to the Inter-American Development Bank.
804—Reduction in Percentage Contribution to International Development Association.
805—Ex-Im Bank Entertainment Limitation.
806—Prohibition of Use of Funds for Propaganda.
807—Public Disclosure by International Financial Institutions.
808—Prohibition of Aid to Cuba.
809—Aid to Korea.

No. 771. Human Rights Amendment

This amendment would make applicable to all aspects of the food and nutrition programs of the Department of State and the Department of Agriculture the human rights prohibitions now applied only with respect to loan agreements under title I of Public Law 480.

On page 2, line 11, strike out "$515,000,000" and substitute in lieu thereof: "$515,000,000: *Provided*, That no part of such appropriation shall be made available, directly or indirectly, to any country which is or would be excluded

by the human rights provisions of Section 112 of the Agricultural Trade Development and Assistance Act of 1954 from entering into an agreement with the United States under such Act".

No. 772. Limitation on Third World Loans to Thirty-Year Term

This amendment requires that the bulk of the funds appropriated for Development Assistance loans must be repaid within thirty years following the date of the loan. The bill as now written permits $175,000,000 to be repaid on the basis of a forty-year term, and in view of the fact that the bulk of such forty-year loans would be made to unstable governments, a term of that length is excessive.

On page 3, strike lines 17 through 20, and substitute in lieu thereof the following: "1978: *Provided*, That of this amount $212,000,000 shall be available for loans".

773. Short-Term Development Assistance Loans

This amendment would require that at least $98,500,000 of the loans made available as Development Assistance loans must be repaid over the relatively short term of fifteen years, thereby increasing the probability that repayment will be received and lessening the inflationary impact of the loans on the U.S. economy.

AMENDMENT NO. 773

On page 3, line 21, strike out the word "thirty" and substitute in lieu thereof the word "fifteen".

774. Limitations on Expenditures for International Organizations and Programs

This amendment reinserts in the bill language adopted in the House of Representatives which guarantees that no more than certain specified amounts may be spent for various areas of United Nations activity. The amendment modifies the House language by reducing the amount available for the Namibia Institute from $500,000 to $50,000 and by reducing the amount available for United Nations Decade for Women from $3,000,000 to $1,000,000. The Namibia Institute is a Marxist-dominated institution located in Lusaka, Zambia. (I have material to back up its undesirable political perspective.) The United Nations Decade for Women expends vast sums carrying out Marxist-oriented propaganda activities while doing virtually nothing to truly improve the status of women.

AMENDMENT NO. 774

On page 4, line 10, strike out the colon appearing at the end of the line and substitute in lieu thereof the following: ", not more than $25,000,000 shall be available for the United Nations Children's Fund, not more than $1,000,000 shall be available for the United Nations Education and Training Program for Southern Africa, not more than $50,000 shall be available for the United Nations Namibia Institute, not more than $1,000,000 shall be available for the United Nations Decade for Women, not more than $2,000,000 shall be available for the United Nations Capital Development Fund, and not more than $5,600,000 shall be available to strengthen the International Atomic Energy Agency's safeguards program out of the total contribution made available to the Agency:".

775. Sahel Amendment

This amendment would make available $20,000,000 during Fiscal Year 1978, provided that the United States total contribution out of the $20,000,000 made available does not exceed 10 percent of the total contribution to the Sahel program. The amendment would allow Congress to re-examine the program on a yearly basis rather than making available for an indeterminate period $50,000,000 as now provided by the bill.

AMENDMENT NO. 775

On page 5, strike out lines 19 and 20 and substitute in lieu thereof the following: "carry out the provisions of Section 121, $20,000,000: *Provided*, That no part".

776. Drug Programs in Bolivia

Major illegal drug imports originate in Bolivia. Just as special emphasis is required for drug programs in Mexico, so also should programs in Bolivia receive special attention.

AMENDMENT NO. 776

On page 6, line 5, strike out "Mexico" and substitute in lieu thereof the following: "Mexico and that $3,000,000 shall be available only for programs in Bolivia.".

777. Unobligated Balances Subject to Authorization Acts

By striking the House language with respect to the purposes for which unobligated balances may be continued for Fiscal Year 1978 the Senate Committee on Appropriations has deftly removed many of the restrictions and specifications in the various authorizing acts involved in the Fiscal Year 1977 appropriations and the appropriations for the transition quarter. The amendment would insure that not only the purposes set forth in appropriations acts, but also the purposes and limitations set forth in authorization acts are to be taken into account with respect to the expenditure of unobligated balances as of September 30, 1977.

AMENDMENT NO. 777

On page 6, line 22, strike out the words "appropriations Acts" and substitute in lieu thereof the following: "appropriations and authorizations Acts".

778. Deobligated Funds Returned to the Treasury

This amendment would require that funds deobligated are not continued available indefinitely in the same appropriations act and for the same purposes set forth in the appropriations act originally involved. The Committee on Appropriations is apparently attempting to circumvent procedures for returning to the Treasury deobligated funds. You should call their hand.

AMENDMENT NO. 778

On page 7, strike out lines 2 through 21 and substitute in lieu thereof the following: "deobligated, hereby returned to the Treasury of the United States.".

779. Red China Amendment

The Committee on Appropriations, in typical arcane fashion, would seek to eliminate the provisions of the Mutual Security Appropriations Act which reiterates the opposition of Congress to the seating in the United Nations of the Communist China regime. The significance of the repeal of the section is that Red China can be seated on the Security Council of the United Nations without the President reporting to the Congress upon the implications of that action on the foreign policy of the United States and, moreover, the express statutory opposition of the Congress to that eventuality would be removed. The following is Section 108 of the Mutual Security Appropriations Act:

SEC. 108. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

AMENDMENT NO. 779

On page 7, strike out lines 22 and 23.

780. $222,000,000 Reduction in Security Supporting Assistance

This amendment would reduce the appropriation for security supporting assistance by $222,000,000. The reduction would be accomplished as follows: $50,000,000 from Egypt, $13,000,000 from Jordan, $37,000,000 from Syria (for a total of $100,000,000), $100,000,000 from the Southern Africa Special Requirements Fund, $6,500,000 from the category of "Southern Africa Regional", $5,500,000 from Swaziland, and $10,000,000 from Jamaica.

The reductions made in the Arab countries reflect approximate levels of expenditures estimated for Fiscal Year 1977 and reflect an attempt to hold the line on military spending for Arab states inasmuch as those states are already subsidized for military purposes by OPEC nations. The elimination of the $100,000,000 Southern Africa Special Requirements Fund reflects the fact that the authorizing legislation only permits $80,000,000 to be allocated to that Fund and further reflects a decision to defer action on the Special Requirements Fund until the $1,000,000 study mandated by the authorizing legislation can be accomplished. Obviously, the money should not be spent before the study is completed. The reduction of $5,500,000 from Swaziland is designed to limit efforts to "wean" Swaziland away from South Africa. Swaziland is on the border with Mozambique and the aid of Swaziland is essential to terrorist border operations by Mozambiquans against South Africa. This amendment would leave Swaziland with $10,000,000 in security supporting assistance which should be more than adequate for a country of ——— million population.

The $6,500,000 is removed from the category "Southern Africa Regional" since the bulk of these funds would probably be expended in Zambia, a country which is giving increasing aid to the forces of Robert Mugabi, leader of the so-called Patriotic Front terrorists who recently burned 24 people alive in a cabin on the northern border of Southern Rhodesia (adjacent to Zambia).

The $10,000,000 reduction from security supporting assistance slated to Jamaica is advisable since political rights in Jamaica are non-existent and the present dictator of Jamaica is increasingly allying himself with other Marxist governments, chiefly Cuba. Note that the authorizing committees have admitted, in effect, that the $10,000,000 slated for Jamaica should not have been carried under the category "Security supporting assistance" since the money would be a mere drop in the bucket when applied against Jamaica's present $300,000,000 balance of payments deficit. The $10,000,000 should more appropriately be provided to Jamaica in the form of direct aid to the population of Jamaica rather than to further bolster the present reprehensible government by encouraging and supporting its spendthrift policies.

Please note that the Senate Appropriations Committee has included in the total category for security supporting assistance $135,000,000 for southern Africa. This total allocation includes $100,000,000 for the Southern Africa Special Requirements Fund even though the authorizing legislation limits the fund to $80,000,000. Moreover, the earmarkings of funds authorized in the $80,000,000 Special Requirements Fund are additive with funds already authorized in the $35,000,000

earmarkings made on a country-by-country basis. Thus, at present, totals stand as follows: Botswana $18,000,000, Lesotho $20,000,000 (incredible), Swaziland $17,500,000, Zaire $10,000,000, Regional Programs in Southern Africa $51,500,000. Note further that the authorizing legislation have indicated that $30,000,000 of the Southern Africa Regional money should be directed to Zambia and that an additional $10,000,000 should be allocated to Zaire so that Zaire will actually receive $20,000,000 even though the Administration only asked for $10,000,000; Swaziland will receive $17,500,000 when the Administration only asked for $10,500,000; Lesotho will receive $20,000,000 even though the Administration only requested $5,000,000; and Botswana will receive $18,000,000 when the Administration only requested $3,000,000.

Frankly, I do not believe the Committee on Appropriations realized that the sums provided in the Special Requirements Fund were additive to the funds already earmarked in the $35,000,000 identified in the Administration budget request. I am sure some embarrassment could be caused by pointing out this particular gaff.

On page 9, line 7, strike out "$2,222,200,000" and substitute in lieu thereof the following: "$2,000,200,000".

781. Earmarkings to Effect $222,000,000 Reduction

This amendment contains earmarkings, allocations, and restrictions consistent with the basic $222,000,000 reduction in the Security Supporting Assistance category made by Amendment No. 10.

AMENDMENT NO. 781

On page 9, line 9, strike out all that appears after the word "Israel" down to and including the word "Syria" at the end of line 11, and substitute in lieu thereof the following: $700,000,000 shall be allocated to Egypt, $80,000,000 shall be allocated to Jordan, $53,000,000 shall be allocated to Syria, not to exceed $3,000,000 shall be allocated to Botswana, not to exceed $5,000,000 shall be allocated to Lesotho, not to exceed $5,000,000 shall be allocated to Swaziland, and not to exceed $10,000,000 shall be allocated to Zaire: *Provided further*, that of the funds appropriated under this paragraph, no funds shall be allocated under the general category Southern Africa Regional, no funds shall be allocated to Jamaica, and no funds shall be allocated to Southern Africa Special Requirement Funds although not to exceed $1,000,000 may be allocated to the preparation of a comprehensive analysis of the development needs of Southern Africa.".

782. Arab State Reductions

This amendment contains allocations necessary to effect a $100,000,000 reduction in Security Supporting Assistance to the Arab states specified.

AMENDMENT NO. 782

On page 9, line 9, strike out all that appears after the word "Israel" down to and including the word "Syria" at the end of line 11, and substitute in lieu thereof the following: "$700,000,000 shall be allocated to Egypt, $80,000,000 shall be allocated to Jordan, and $53,000,000 shall be allocated to Syria".

783. African States Reductions

This amendment does not reduce expenditures in Arab states but does reduce by $122,000,000 expenditures in Southern Africa and Jamaica.

AMENDMENT NO. 783

On page 9, strike out lines 10 and 11 and substitute in lieu thereof the following: "$93,000,000 shall be allocated to Jordan, $90,000,000 shall be allocated to Syria, not to exceed $3,000,000 shall be allocated to Botswana, not to exceed $5,000,000 shall be allocated to Lesotho, not to exceed $5,000,000 shall be allocated to Swaziland, and not to exceed $10,000,000 shall be allocated to Zaire: *Provided further*, That of the funds appropriated under this paragraph, no funds shall be allocated to Jamaica, and no funds shall be allocated to the Southern Africa Special Requirement Fund although not to exceed $1,000,000 may be allocated to the preparation of a comprehensive analysis of the development needs of Southern Africa.".

784. Limitaton on Loan Authority

This amendment guarantees that all loans made to the category Security Supporting Assistance shall mature within 30 years following the date on which funds were originally made available under such loans.

AMENDMENT NO. 784

On page 9, line 16, strike out the words "not to exceed $865,400,000" and substitute in lieu thereof the following: "no funds".

785. AID entertainment and representational expenses

This amendment insures that not more than $5,000 within the United States and not more than $15,000 in foreign countries shall be expended for entertainment purposes by AID personnel.

AMENDMENT NO. 785

On page 10, line 22, strike out the word "Development" and substitute in lieu thereof the following: "Development and that none of the funds made available by this Act shall be used for representational or entertainment expenses in excess of $5,000 within the United States and $15,000 in foreign countries".

786. Overseas Private Investment Corporation entertainment

This amendment reduces from $5,000 to $1,000 the funds available to the Overseas Private Investment Corporation for entertainment purposes.

AMENDMENT NO. 786

On page 11, line 2, strike out '$10,000" and substitute in lieu thereof the following: "$1,000".

787. Prohibition on Direct or Indirect Assistance to Certain Repressive Governments

This amendment expands the scope of a present provision in the bill by banning funds to Angola, Mozambique, Equatorial Guinea, North Korea, Cuba, and the Peoples Republic of China, in addition to the countries already specified, to wit: Uganda, Cambodia, Laos, and the Socialist Republic of Vietnam.

AMENDMENT NO. 787

On page 14, strike out lines 6 and 7 and substitute in lieu thereof the following: "expended to finance directly or indirectly any assistance or reparations to Uganda, Angola, Mozambique, Equatorial Guinea, North Korea, Cuba, the Peoples Republic of China, Cambodia, Laos, or the Socialist".

788. Limitation on AID Entertainment

This amendment would reduce the Committee limitation on AID entertainment expenses within the United States from $15,000 to $5,000.

AMENDMENT NO. 788

On page 14, line 17, strike out "$15,000" and substitute in lieu thereof the following: "5,000".

789. Limitation on AID representational expenses

This amendment would limit so-called "representational" entertainment expenses in foreign countries to $15,000 and would thereby save $81,000 over the committee bill.

AMENDMENT NO. 789

On page 14, line 21, strike out $96,000" and substitute in lieu thereof the following: "$15,000".

790. Military assistance program entertainment limitation

This amendment would reduce the funds available for military assistance program entertainment expenses from $73,900 to $10,000, thereby effecting a savings of $63,900.

AMENDMENT NO. 790

On page 15, line 2, strike out $73,900" and substitute in lieu thereof the following: "$10,000".

791. General human rights amendment

This amendment would strengthen the provision already contained in the bill prohibiting the obligation or expenditure of funds for the purpose of aiding in a foreign government's effort to repress legitimate civil rights.

AMENDMENT NO. 791

On page 15, strike out lines 18 through 22 and substitute in lieu thereof the following: "country for the purpose of aiding, or likely to have the effect of aiding, directly or indirectly, the efforts of the government of such country to repress the legitimate civil, political, and religious rights of the population of such country or the population of any other country contrary to the Universal Declaration of Human Rights."

792. Indirect assistance of Mozambique or Angola

This amendment would reinsert language in the bill as passed by the House of Representatives designed to prevent a circumvention of the prohibition on aid to Mozambique or Angola.

AMENDMENT NO. 792

On page 15, line 25, strike out the word "directly" and substitute in lieu thereof the following: "directly or indirectly.".

793. Limitation on aid to Panama

This amendment would guarantee that aid to Panama is held at presently planned levels, i.e., approximately $22,000,000, and would thereby prevent the Executive Branch from diverting unearmarked funds to Panama in conjunction with efforts to negotiate a new Canal treaty.

AMENDMENT NO. 793

On page 16, at the end of line 8, add the following new Section: "Sec. 117. None of the funds made available by this Act in excess of $25,000,000 may be expended directly or indirectly for the benefit of the Republic of Panama."

794. Reduction in contribution to Asian Development Fund

This amendment would reduce the United States' contribution to the Asian Development Fund replenishment from $263,571,563 contained in the Senate committe bill to the $200,000,000 level specified in the House bill, thereby effecting a savings of $63,571,563. If the Senate amount prevails, this year's replenishment of the Asian Development Bank will be $148,094,563 above the 1977 appropriation for the same purpose. The modest reduction made by the House in the original budget estimate of $263,571,563 should be retained by the Senate in order to preclude the Senate position prevailing in conference.

AMENDMENT NO. 794

On page 18, line 11, strike out "$263,571,563" and substitute in lieu thereof "$200,000,000".

795. Prohibition on Asian Development Bank Loans to Vietnam, Cambodia, or Laos

This amendment would guarantee that the Asian Development Bank does not make

additional loans to Vietnam, Cambodia, or Laos, since presumably the Bank would prefer to have the $263,000,000 replenishment coming from the U.S. Treasury.

AMENDMENT NO. 795

On page 19, immediately before the period at the end of line 2, insert the following: ": *Provided further*, That no such payment shall be made in the event the Asian Development Bank does not agree prior to such payment to refuse to contribute or lend funds to the Socialist Republic of Vietnam, Cambodia, or Laos".

796. Reduction in Inter-American Development Bank Replenishment Contribution

This amendment would reduce by $323,000,000 the U.S. contribution to the Inter-American Development Bank. (Note: the committee bill does already contain a reduction of $77,000,000 from the Administration request of $600,000,000.)

AMENDMENT NO. 796

On page 19, line 12, strike out "523,000,000" and substitute in lieu thereof the following: "200,000,000".

797. Prohibition on Inter-American Bank loans to Cuba

This amendment would guarantee that the Inter-American Development Bank does not make loans to Cuba.

AMENDMENT NO. 797

On page 20, immediately before the period at the end of line 2, insert the following: ": *Provided further*, That no such payment shall be made in the event the Inter-American Development Bank does not agree prior to such payment to refuse to contribute or lend funds to Cuba".

798. Reduction in replenishment contribution to the International Bank for Reconstruction and Development

This amendment would reduce the United States contribution to the International Bank for Reconstruction and Development from $400,000,000 to $100,000,000, thereby effecting a savings of $300,000,000.

AMENDMENT NO. 798

On page 20, line 9, strike out "400,000,000" and substitute in lieu thereof "$100,000,000".

799. Limitation on loans to the Republic of Panama

This amendment provides that the International Bank for Reconstruction and Development must agree to limit loans or contributions to the Republic of Panama to 5% of the Bank's loans made to Panama which were outstanding on July 1, 1977. (Note: A similar amendment might be considered for the Inter-American Development Bank.)

AMENDMENT NO. 799

On page 20, immediately before the period on line 19, insert the following: ": *Provided further*, That no such payment shall be made in the event the International Bank for Reconstruction and Development does not agree to limit loans or contributions made to the Republic of Panama in any one calendar year to 5% of the principal amount of all loans of the Bank made to the Republic of Panama which were outstanding on July 1, 1977".

800. Reduction in contribution to the International Finance Corporation

This amendment would reduce the United States contribution to the International Finance Corporation from $44,597,200 to $40,000,000, thereby effecting a savings of $4,597,200 and additionally making consistent the Senate provision with the provision contained in the House bill.

AMENDMENT NO. 800

On page 21, line 2, strike out "44,597,200" and substitute in lieu thereof "$40,000,000".

801. Reduction in replenishment for the International Development Association

This amendment would reduce by $350,000,000 the contribution made to the International Development Association so that this year's replenishment would be only $220,000,000 in excess of last year's. At present the replenishment is more than one-half billion dollars above the appropriation contained in the 1977 Act.

AMENDMENT NO. 801

On page 21, line 12, strike out "$950,000,000" and substitute in lieu thereof "$600,000,000."

802. The sense of the Congress provision on international financial contribution

This amendment would correct the error of the Senate Committee on Appropriations in providing only for a sense of the Senate provision regarding international financial contributions and would make the provision the sense of the Congress.

AMENDMENT NO. 802

On page 22, line 10, strike out the word "Senate" and substitute in lieu thereof "Congress".

803. Percentage limitation on contributions to the Inter-American Development Bank

This amendment would make the percentage contribution of the United States to the Fund for Special Operations of the Inter-American Development Bank consistent with the percentage of U.S. contributions to other funds. The Fund for Special Operations is used primarily to aid preferentially countries with serious balance and payment deficits, thereby amounting to *sub rosa* form of foreign aid by inflating the U.S. currency in relation to the currency of the recipient nation.

AMENDMENT NO. 803

On page 23, line 2, strike out "40%" and substitute in lieu thereof "34.5%".

804. Reduction in percentage contributions to International Development Association

This amendment would reduce the U.S. contribution to the Inter-American Development Association of the International Bank for Reconstruction and Development from 25% to 15%.

AMENDMENT NO. 804

On page 23, line 7, strike out "25" and substitute in lieu thereof "15".

805. Eximbank entertainment limitation

This amendment would limit funds for entertainment by the Board of Directors of the Eximbank to $4,000 in lieu of the $24,000 specified in the committee bill.

AMENDMENT NO. 805

On page 24, line 14, strike out "$24,000 for entertainment allowances" and substitute in lieu thereof "$4,000 for entertainment allowances".

806. Prohibition of use of funds for propaganda

This amendment would strengthen the bill's prohibition on the use of foreign aid funds for publicity or propaganda purposes within the United States. The committee bill contains the escape clause "not heretofore authorized by Congress" which presumably might permit the United Nations Decade for Women or similar organizations to operate with impunity in the American political system with U.S. taxpayer funds.

AMENDMENT NO. 806

On page 25, line 8, strike out lines 8 and 9 and substitute in lieu thereof the following: "within the United States.".

807. Public disclosure by international financial institutions

This amendment would strengthen the committee bill for disclosure of loan information by international financial institutions.

AMENDMENT NO. 807

On page 27, strike out lines 15 and 16 and substitute in lieu thereof the following: "international financial institution whose United States' Representative cannot upon his own request, or upon his request on behalf of a Member of Congress, obtain and disclose to the people of the United States the amounts and the".

808. Prohibition of aid to Cuba

This amendment would strengthen the Senate committee's prohibition on aid to Cuba by reinserting the House language struck by the Senate in committee.

AMENDMENT NO. 808

On page 28, line 6, strike out the word "directly" and substitute in lieu thereof "directly or indirectly,".

809. Aid to Korea

This amendment would insure that our withdrawal from Korea is not precipitous by restoring to the Korean military assistance program the $60,000,000 made available in fiscal year 1976. (See page 98 of Report 95-352.)

At the end of the Act, add the following new section:

"SEC. . Of the funds appropriated or made available pursuant to this Act to the Republic of Korea, not less than $60,000,000 shall be used for military assistance, not less than $1,400,000 shall be used for international military education and training, and not less than $275,000,000 shall be used for foreign military credit sales.".

WATER POLLUTION CONTROL—S. 1952

AMENDMENT NO. 810

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

Mr. NELSON (for himself, Mr. ANDERSON, Mr. MOYNIHAN, Mr. HART, Mr. PROXMIRE, Mr. RIEGLE, Mr. LEAHY, and Mr. BAYH) submitted an amendment intended to be proposed to the bill (S. 1952) to amend the Federal Water Pollution Control Act Amendments of 1972.

ADDITIONAL STATEMENTS

GERARD SMITH: AN EXPERIENCED VOICE IN ARMS NEGOTIATIONS

Mr. HEINZ. Mr. President, the appointment and subsequent confirmation 2 weeks ago of Gerard C. Smith as Ambassador at Large, Special Representative for Non-Proliferation Matters, and our Representative to the International Atomic Energy Agency is a welcome sign indeed.

Gerard Smith has had a long and distinguished career in Government culminating in his 4 years of service as Director of the Arms Control and Disarmament Agency and chief negotiator at the SALT talks which produced the first SALT agreement.

Prior to that Mr. Smith had served with the Atomic Energy Commission in its early days and then joined the State Department as an adviser to Secretary of State Dulles on nuclear and disarmament problems. In 1957 he became Assistant Secretary of State for policy planning, and from 1961 to 1968 he was a consultant to the Department's Policy Planning Council.

Those of us who viewed with some concern the appointment of Paul Warnke as our chief negotiator at the new SALT talks should be heartened by the news of Mr. Smith's forthcoming involvement in those same negotiations. In fact, this appointment represents a recognition on the part of the President of the accuracy of many of the concerns expressed about Mr. Warnke at the time of his nomination.

At that juncture those who opposed Mr. Warnke were concerned that his positions on arms control issues were too rigid—that he was too publicly committed to be an effective negotiator. In particular there was fear on the part of some that Mr. Warnke's well-publicized distaste for several of our developing weapons systems could lock us into concessions at Geneva that were both unnecessary and unwise from a national security point of view. The subsequent meeting last spring with Soviet officials did little to convince the public that the United States was represented by an experienced, flexible negotiating team.

For these reasons then, the return of Gerard Smith to the arms negotiation scene is a welcome turn of events. Ambassador Smith is a seasoned negotiator, having spent 4 of the past 8 years in Mr. Warnke's current position, and the results of his tenure—SALT I—prove him a resourceful and flexible man who can obtain a fair agreement without sacrificing our vital security interests. The New York Times had a thoughtful commentary of Mr. Smith's work at the time of his resignation in early 1973:

President Nixon has lost an able and effective public servant with the resignation of Gerard C. Smith, director of the Arms Control and Disarmament Agency and chief negotiator for the Strategic Arms Limitation Talks with the Soviet Union.

A skillful fighter for the cause of arms control against demands of the military for ever more weaponry, Mr. Smith always avoided the temptation of taking his battles to Congress or the public. SALT I was the towering achievement of his four years in office; ironically, one of the most dubious concessions in that accord was made by Mr. Nixon himself over his disarmament chief's head. For months of hard bargaining last year, Mr. Smith resisted demands of the Soviet Union to be permitted to significantly larger submarine fleet. At the last moment, President Nixon conceded the point in order to seal the agreement during his Moscow summit meeting.

Ambassador Smith, credited with first posing the Soviet-American hotline, brings imagination, dedication, resourcefulness and experience to his new position, all needed qualities. I welcome Ambassador Smith to his new position, and I compliment the administration on seeing the light—as expressed by many of us during Ambassador Warnke's confirmation hearings—and bringing him on board.

THE NEW LOOK AT INTERIOR

Mr. CHURCH. Mr. President, this week's issue of Newsweek magazine contains a highly complimentary article on some of the major changes being made at the Department of the Interior under Secretary Cecil Andrus, the former Idaho Governor.

Noting that White House aides "now call him the most effective Cabinet member," the article goes into detail on the Secretary's efforts to reorganize the Department to change what Andrus has called the policy of "rape, ruin and run."

I commend the article to my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

ENVIRONMENT: INTERIOR REDESIGN

When Jimmy Carter placed a lanky, popular two-term Idaho governor named Cecil Andrus in charge of the Department of the Interior last January, most environmentalists held little hope that Andrus would be able to change what he called the "rape, ruin and run" development policies presided over by Interior. The man seemed dedicated enough, but he was going up against a lot of history. For much of its 128-year existence, the department often shaded its environmental responsibilities—to manage 538 million acres of Federal land, to protect fish and wildlife, to supervise Indian lands and to administer the continental shelf—in favor of rapid development by mining companies, oil firms or ranchers. Interior's Bureau of Land Management was often called "the bureau of livestock and mining," and those few Interior Secretaries with conservationist tendencies—notably Stewart Udall—were bent or buried under the combined weight of big money, entrenched bureaucracy and Presidential waffling.

But after seven months, Andrus has established a strong environmental thrust at the Interior Department, outraging industry lobbyists in the process. He was the point man for the Administration's recommended cancellation of nineteen pork-barrel water projects, and he is backing legislation to tighten environmental safeguards on offshore oil drilling. A supporter of strong strip-mining legislation, Andrus helped secure a proviso that would flatly ban strip mining on prime agricultural land. In contrast to recent years, about a dozen environmental activists have been hired by the department and given some clout. "It's a clear environmental commitment," says the Sierra Club's Michael McCloskey.

Andrus has so allayed Congressional and environmental distrust of Interior that it may be expanded into a new Department of Natural Resources and Environment—to include the U.S. Forest Service, the Army Corps of Engineers and the powerful Environmental Protection Agency. Newsweek has learned that the Office of Management and Budget is about to launch a study of such a sweeping reorganization.

Reassurance: Andrus has already won the confidence of the governors of the coastal and Western states, who had the most to fear from Interior's pro-development policies of the past. "The difference is like night and day," says New Jersey's Gov. Brendan Byrne, who had been fighting both the Nixon and Ford administrations over offshore oil exploration. "We have a lot more confidence that we're going to be protected." Andrus has also won over Alaska's Republican Gov. Jay S. Hammond, who has been concerned about offshore exploration and the fate of 83 million acres of Alaskan lands.

In April, Andrus took on the timber companies and logging unions when he backed a Congressional bill that would add 48,000 acres to Redwood National Park in California. He also halted Interior's attempt to bully California into permitting construction of Exxon Corp.'s controversial tanker terminal in Santa Barbara Channel. "Prior to Andrus's arrival," says Don Neuwirth of the California Coastal Zone Conservation Commission, "if you cut somebody in the oil companies, somebody at the Interior Department bled. It was impossible to distinguish the regulators from the regulatees."

Andrus's performance has angered industry lobbyists. They call his aides "no-growth preservationists" and complain, in the words of an oil-company lawyer, that Federal acreage may not be "available to shoulder its fair share of the responsibility in meeting future energy and mineral needs."

Country Boy: Such sniping seems to leave Andrus unruffled. A 45-year-old country boy who dropped out of Oregon State after a year, he sold insurance and ran his father's sawmill before turning to politics after hearing John F. Kennedy on the Idaho stump in 1958. Called to Plains to discuss the Interior job with President-elect Carter, Andrus says he had just one question: "Am I going to run Interior or will it be run by the White House staff?"

Assured of Presidential backing (White House aides now call him the most effective Cabinet member), Andrus says he is seeking a better balance between conservation and development. "All development doesn't have to be on *their* ground rules, at the expense of the environment," he says. "If development doesn't devastate the environment, then we'll be for it," he says. "Protection is no longer a pious sentiment. It is an element of the survival of this race."

Andrus may soon face his toughest opposition—from James Schlesinger's Department of Energy. So far the two men have worked together closely, but the prospect looms of a major three-way struggle among the environmentalists, the states and the Federal energy developers for control of vast tracts on-shore and off. On the evidence so far, Andrus seems quite willing and able to hold his own.

CARTER'S ENERGY DEBACLE

Mr. HATCH. Mr. President, on June 21 I raised the question in the Senate: "Are the Carter Energy Hardships Necessary?" I asked if it was an energy program or a power grab. The answer to my question can be found in the August issue of Harper's in a thoroughly researched and documented article by Lewis H. Lapham, the editor of this fine and respected magazine. From Mr. Lapham's account it is clear as day that the Carter energy program is a power grab on the part of one man—David Freeman—who successfully used the Ford Foundation to launch his own personal ideas into a national energy program which furthers the interests of a new class of power brokers and technocrats at the expense of the American people.

The Carter energy plan is nothing other than David Freeman's 1974 Ford Foundation report—a report that has been characterized by a number of prominent economists as "an intellectual disgrace." Freeman's partisan use of the Ford Foundation to enshrine his personal views in an energy program was a source of acute embarrassment to officials of the foundation. The foundation official responsible for Freeman's report described it as "simply awful stuff." In the foundation's defense, the official discounted as nonsense the possibility of the report having a political result. The report could not do any harm, he said, because "the intelligent reader will see

through it." McGeorge Bundy, the foundation's president, said that it would be a mistake to assign significance to a report which, from a scientific point of view, might be construed as nothing more than an elaborate press release. Yet, Mr. Freeman is today in the White House with President Carter, and his energy program is the President's energy program.

Mr. Lapham reports that—

At its final meeting on August 5, 1974, the project's advisory board, finding that Freeman's bias was deeply embedded in the text of the report, required him to include a series of specific recommendations. Although originally conceived as an open-minded examination of all the factors relevant to an energy policy, the report quite clearly wasn't any such thing. Any pretense to objectivity might have been cause for embarrassment.

What are these biases that have been proposed by the President as a national energy program? They are the biases of a man who sees himself in an adversary role toward the American economic system, a man who sees free enterprise not as a source of progress but as a source of evils and miseries. They are the biases of a man who believes, as Harper's editor says:

That the United States could reduce its demand for energy by as much as 50 percent if only it would establish a federal agency large enough and forceful enough to impose rationing (on heating fuels as well as gasoline), allocate resources, rearrange the international oil market, set prices, raise taxes, issue energy stamps, and redistribute income.

Mr. President, a person does not have to be very long in Washington before he learns how special interests masquerade behind the guise of "the public interest." What special interests are being advanced by the energy legislation that the President has brought to the Congress? Mr. Lapham answers that question as follows:

The technocratic class, of which Freeman was representative, aligned itself with the academic and bureaucratic interest, with government regulation in all markets, with the host of ambitious mandarins (city planners, professors of social science, journalists, foundation officials, and university presidents) who talk of building a New Jerusalem in the slum of capitalism. Although as self-interested as the older class, the new class is less forthright about its desire for political influence. Its publicists seldom point out that a policy of "zero growth," whether computed in terms of energy or anything else, rewards people who explain, categorize, and interpret things at the expense of people who make things. In a stagnant society, the bureaucrat holds sway. His taxes, regulations, and moralisms replace the market mechanism, and, like the grocery clerk in command of a limited inventory, he finds himself invested with the wisdom of Solomon. Knowing this to be so, the bureaucrat resents the messiness of abundance.

Mr. President, the Congress does not owe this special interest group anything. Why, then, are we in the process of considering whether we are going to turn the U.S. economy over to them?

I ask unanimous consent that Mr. Lapham's article, which is as fine an example of writing as it is of reporting, be printed in the RECORD.

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

THE ENERGY DEBACLE

(By Lewis H. Lapham)

But man, proud man!
Dress'd in a little brief authority,
Most ignorant of what he's most assur'd,
His glassy essence, like an angry ape,
Plays such fantastic tricks before high heaven
As make the angels weep.

—Measure for Measure

I

The news from Washington suggests that President Carter's energy plan, otherwise known as "the moral equivalent of war," suffers from a lack both of strategy and recruits. Witnesses testifying before the Congress point out, as politely as possible and without meaning to hurt anybody's feelings, that the plan must have been written by people who didn't know what they were talking about. Their collective testimony (about such substantive matters as oil reserves, markets, automobiles, prices, and environmental effects) conveys the impression that the plan was conceived either as a transcendent moral vision or as a scheme to raise about $40 billion a year in additional tax revenue. Either possibility would explain the confusion about the character and extent of "the energy crisis." If it were a question of moving oil and gas from one place to another, of finding new fuels or designing new machinery, then in a nation as inventive as the Uited States I would expect that the problem could be solved without much difficulty. But the crisis unfortunately has little to do with technology, or even with raw materials. It is a political crisis, and, like most things political, resolves itself into quarrels about who has the right to do what to whom, at what price and in whose interest under what definition of government and according to which interpretation of the democratic idea.

As a demonstration of this hypothesis I propose to tell an exemplary tale. The characters in the story, all of them either rich, influential, or well informed, came together in 1972 as participants in the Energy Policy Project, commissioned by the Ford Foundation. For the next two years they carried forward what the foundation was pleased to call "a dialogue" in which their fear, prejudice, and anger frequently obscured the questions at hand. As in the larger world of the Congressional debate, so also in the little room of the Energy Policy Project. People associated the advancement of their own interests with the preservation of Western Civilization and The American Way of Life. Experts came and went, displaying their maps and graphs like so many magicians' scarves, conducting their discourse in the theater of hypothetical numbers, and proving whatever they were expected to prove. Their statistics provided a screen behind which the interested parties could haggle about the division of the spoils.

The foundation assigned the direction of the project to S. David Freeman, a fervent advocate of environmental reform now employed in the White House Office of Energy Planning. Given grants amounting to $4 million between 1971 and 1974, Freeman produced a compendium of research in twenty-one volumes and a final report published under the title *A Time to Choose*. His report recommended a policy of energy conservation and suggested that the United States could reduce its demand for energy by as much as 50 percent if only it would establish a federal agency large enough and forceful enough to impose rationing (on heating fuels as well as gasoline), allocate resources, rearrange the international oil market, set prices, raise taxes, issue energy stamps, and redistribute income. The report also asked for the manufacture of more efficient automobiles, for government subsidy of anything that might conserve energy, for a schedule of pollution taxes, and for the raising up of a tribunal that could award supplies of energy (on the basis of need and moral worth) among major industries and geographic regions. As might be guessed by Freeman's presence in the White House, many of these same proposals, together with the social doctrine implicit in his report, appear in President Carter's energy plan.

A Time to Choose was published in October 1974 with all the expensive ceremony that the foundation attachés to announcements of grave social significance. It was presented at press conferences convened simultaneously in New York and Washington. At least 6,000 copies of the report were given to members of Congress, the federal bureaucracy, and the press; during the autumn of 1974 another 30,000 copies were sold in bookstores, and the foundation arranged for the Book-of-the-Month Club to offer an additional 300,000 copies of an abridged text to its civic-minded subscribers.

In the minds of many people on Capitol Hill at the time, the report was thought to provide the first coherent explanation of energy matters not submitted by the oil and gas lobby. Politicians spoke of the report's "filling a vacuum," of the way in which it "exploded the myth of a connection between energy growth and economic growth as a whole." The sector of the national press that notices such things received the publication of the report with thanksgiving and applause. Among more knowledgeable people the response was not so enthusiastic. A number of prominent economists characterized the report as an intellectual disgrace. Several months later, under suspicion of having sponsored the dissemination of ideological propaganda, even a hierarch at the Ford Foundation disavowed the worth of the report, describing it as inept, foolish, and of little consequence.

II

My own acquaintance with the report was the result of a conversation with William Tavoulareas, the president of the Mobil Oil Corporation. Tavoulareas had served on the advisory board to the Energy Policy Project, but on the date after the Ford Foundation held its press conference Mobil placed an advertisement in 117 newspapers denouncing the final report as the harbinger of an American police state. Recognizing this as an unusual act on the part of a man who had been a signatory to the document in question, I went to ask Tavoulareas about the reasons for his unhappiness. A red-faced and choleric man, who spoke so rapidly that it was sometimes difficult to hear what he said, Tavoulareas rocked back and forth in his chair and gestured furiously with his hands. He described the Ford Foundation as a "goddamned ripoff," as an institution afraid of debate, as a conspiracy of petty tyrants determined to wreck the country. When his anger threatened to choke him, he gripped the sides of his chair and held onto it as if to a child's rocking horse. Not only had the foundation published a work of fraudulent and subversive economic analysis, but also, he said, it had failed to honor its contractual obligations. Tavoulareas had agreed to serve on the project's advisory board only after he had received assurances that his views would be published in the final report. The foundation agreed to this condition in writing, but when Tavoulareas offered a dissenting opinion of several hundred pages the foundation refused to publish it on the grounds that it was too long.

"Who do these people think they are?" he said. "To whom are they accountable?"

As evidence of the injustice that had been done to him, Tavoulareas handed me the file

of his correspondence with Freeman and various foundation officials. The correspondence opened a Pandora's box of apology and recrimination. Over the next six months, I spoke to many of the people associated with the project, and I was surprised to discover that few of them could discuss the subject without bitterness. Together with Tavoulareas the advisory board counted among its members such prominent men as Michael McCloskey, executive director of the Sierra Club; John D. Harper, chairman of the Aluminum Corporation of America; Harvey Brooks, dean of the division of Engineering and Applied Physics at Harvard University; Phillip S. Hughes, assistant comptroller general, General Accounting Office; Joseph L. Fisher, formerly president of Resources for the Future and now a Democratic Congressman from Virginia; and Gilbert White, director for the Institute of Behavioral Sciences at the University of Colorado.

I had assumed that all of these gentlemen would recognize a common, even a national, interest. Without exception they belonged to the American ruling class; they enjoyed equivalent degrees of status and lived in the same well-lighted suburbs of Washington, New York, Pittsburgh, Boston, and San Francisco. Any agreement about energy policy clearly served their mutual advantage, and yet so many of them apparently had been reduced to calling each other names, as if they had been walking around in the rain with political placards instead of sitting across conference tables from one another.

McCloskey remembered Tavoulareas as "a bully who thought that everybody should dance to his tune," a man whose "presumption and gall" reminded him of Khrushchev pounding his shoe on the table of the General Assembly in the United Nations. Tavoulareas described McCloskey as "a nut." Freeman, the director of the project, spoke contemptuously of both Tavoulareas and the Ford Foundation; Tavoulareas he characterized as "a Nixon type . . . a bad actor who played dirty pool and tried to take advantage of his monstrous corporate power"; the Ford Foundation he dismissed as "a group of nervous Nellies," crouching and timid men who feared the "cutting edge of controversy." Tavoulareas thought Freeman "a fool and a zealot."

Attempting to remain equidistant from any and all parties to a quarrel they thought unseemly, officials at the Ford Foundation described Tavoulareas and Freeman as well-intentioned but misguided advocates who, "quite frankly . . . didn't understand the rules."

None of this made much sense until I realized that the people associated with the project didn't think of themselves as belonging to the same ruling class. They divided themselves into at least two classes, and they preferred to think of the project as a mortality play in which the people they didn't like or with whom they didn't agree appeared as personifications of the Evil One. The merchant class, of which Tavoulareas was representative, aligned itself with the financial and industrial interests, with the theoretical freedoms of the marketplace, and with the sanctity of money. Most of the people associated with this class endorsed the notion of an "energy crisis" because it was good for business: if oil could be made to seem in scarce supply, then everybody could maintain a posture of innocence while selling it for high prices.

The technocratic class, of which Freeman was representative, aligned itself with the academic and bureaucratic interest, with government regulation in all markets, with the host of ambitious mandarins (city planners, professors of social science, journalists, foundation officials, and university presidents) who talk of building a New Jerusalem in the slum of capitalism. Although as self-interested as the older class, the new class is less forthright about its desire for political influence. Its publicists seldom point out that a policy of "zero growth," whether computed in terms of energy or anything else, rewards people who explain, categorize, and interpret things at the expense of people who make things. In a stagnant society, the bureaucrat holds sway. His taxes, regulations, and moralisms replace the market mechanism, and, like the grocery clerk in command of a limited inventory, he finds himself invested with the wisdom of Solomon. Knowing this to be so, the bureaucrat resents the messiness of abundance. In a robust or creative society, too many people go around making things without permission, inventing new sources of wealth and political theory. Obviously people cannot be trusted. They must be managed. But most people object to being managed, even for their own good, and so first they must be frightened, which is why, in the best ideological circles, it is proper to say that the United States is cruel, ignorant, and wasteful. Thus the government's willing belief in the apparition of the energy crisis and the news that the world is coming to an end.

III

When the foundation decided to consider the problem of energy policy in late 1971, McGeorge Bundy announced that it hoped to provide "an informed and reasoned base" for the national discussion. The evidence suggests that the report was neither reasoned nor informed, but for the time being it is enough to say that the foundation had assembled a large sum of money for a public purpose and that somebody suggested that it might be useful to do something about energy. Clearly the subject was one of sufficent importance; obviously it was complicated and therefore in need of additional research; certainly it was the kind of thing to which the foundation should address itself. Nobody quite knew how to go about it, but a program officer named Edward Ames recommended the formation of an independent study group under the direction of S. David Freeman.

I spoke to Ames in December of 1974, at a time when he wanted very much to believe that he hadn't taken part in something that might be construed as a failure. He has since left the employ of the foundation, but I remember him as a thoughtful man in his early forties who, with a faint but disarming smile, accepted full responsibility for the management of the Energy Policy Project.

"I'm the continuity," he said. "If anybody takes blame or credit for this, it is I."

Of the three people to whom I spoke at the foundation, Ames was the only one who was embarrassed about the intellectual inadequacies of the report. Choosing his words with painful discretion, he said that he had "introduced" Freeman to the foundation. Freeman was a lawyer who had come to Washington from the Tennessee Valley Authority in the early 1960s. Appointed to the Federal Power Commission by President Kennedy and to the White House Office of Science and Technology by Presidents Johnson and Nixon, he had written President Nixon's energy message in the spring of 1971; shortly afterward he had become the director of an energy study sponsored by the Twentieth Century Fund. His credentials were of a kind to warrant the investment of foundation money, and, like Ames, he favored the environmental line of argument. In journals as diverse as the *New York Times* and and the *Bulletin of Atomic Scientists*, in articles published as early as 1968, Freeman had censured the energy industries and recommended a reduction in demand to conserve dwindling supply.

"It's always a problem with these things," Ames said. "If you're going to go to somebody who knows something, you find yourself with a man who holds opinions."

The foundation took the precaution of inviting Freeman to New York to meet with its board of trustees, a procedure that Ames described as extremely unusual. During a conversation that lasted about thirty minutes, Freeman was asked if he could conduct a study with an open mind, whether he was capable of restraining his bias while constructing an objective analysis. As Ames remembered it, the trustees were very particular on this point; they hoped for a comprehensive review of the alternatives rather than a passionate declaration of principles. Ames remembered that Freeman said something to the effect that, although he had an open mind, he didn't have an empty one. And then, with a hint of apology in his voice, Ames said:

"We believed him."

For a moment we both looked out the window at the profusion of trees and flowers in the interior garden of the foundation's building on East Forty-second Street in New York City. That the foundation should have felt obliged to advance the cause of energy conservation struck me as incongruous. The gracefulness of its own building depended on the profligate waste of light and space. Laughing nervously and still talking about Freeman, Ames said: "After the fact, you can say that we were naive."

I later met Freeman in Washington, and I found it difficult to understand how anybody could have mistaken the intensity of his commitment to a cause. During the winter of 1975 he was employed by the Democratic majority in Congress, and he reecived me in a cluttered government office, his desk strewn with drafts of legislation and his secretary making engagements for him to speak to environmental groups in Maryland and Florida. A slender and intense man, quite obviously possessed by a utopion vision of the just society, he cast his arguments in the same mode of self-righteous Puritanism that has come to characterize the rhetoric of President Carter. Freeman spoke in a quiet and slightly Southern voice, but his speech had an edge of harshness in it, as if he thought himself chosen to draw the lines of moral geography, if necessary with the point of a knife. The conversation with the Ford Foundation trustees in New York he remmbered as an empty charade. He assumed that all those present understood his support of a policy for conserving energy.

"It was clear enough," he said. "Everybody knew what my feelings were."

The foundation had come to him, he said, and he had agreed to undertake its project on the condition that he could continue to lobby for his own ideas. The foundation could pay for the studies, but he would hire the consultants and decide what was deserving of research.

"But Bundy knew all that," he said. "The foundation knew it was buying a controversial guy. I felt that it was my mandate to educate the members of the Congress and the press."

He established the project's offices in Washington (another unusual procedure for a supposedly scholarly and nonpartisan study) and began the business of recruiting an advisory board that would invest the project with an aura of national consensus. Freeman didn't particularly care who the foundation nominated to the advisory board. He was concerned only that the members of the board represented a sufficiently broad spectrum of opinion to sustain the illusion of impartiality. He agreed to print any comments they might wish to append to the final report, but he didn't expect to pay close attention to their advice or counsel.

"I could take it or leave it," he said. "What none of them seemed to understand . . . probably because they were board-of-direc-

tors types used to ordering people around . . . was that I had the power. I had the power, and it didn't matter what any of them said."

Freeman reminded me of this point several times during the space of an hour, and I remember being taken aback by the violent emphasis that he placed on the word power. His enemies had been delivered into his hands, and he had thoroughly enjoyed the task of meting out God's vengeance. Listening to him talk about the wickedness of oil companies, I reflected that Freeman and Tavoulareas were very much alike. They shared an equivalent obsession with power, and it seemed that both of them had embarked on the project in the hope of rooting out—once and for all and without any more of this goddamn wheedling and compromise—the infamous doctrine of those people whom they imagined to be subverting the Constitution and subtracting from the sum of their civil rights. They were engaged in argument about which of them represented legitimate authority in the United States. Both of them also wanted to control the buying and selling in the company store, and neither of them seemed to know that the poor man forced to do the work of the society seldom cares whether his overlords call themselves capitalists or environmentalists.

When Freeman first went with Ames to persuade Tavoulareas to serve on the advisory board, each must have thought that he could outwit the other. Tavoulareas accepted a place on the board despite the advice of his friends in the oil industry who warned him against trusting "any of those liberal bastards at the Ford Foundation" and despite his familiarity with Freeman's record as an implacable opponent of big business. His motives for doing so deserve a moment's speculation because it is possible that they reflect the inability of the older class to perceive the strengths and weaknesses of the technocrats.

Tavoulareas may have thought that the Ford Foundation embodied the best of the American dream, that somehow it had managed to preserve the spirit of the New England town meeting in which free men conduct a free debate in the name of Enlightenment. He had been born poor in the Red Hook section of Brooklyn, working his way upward through the hierarchy of Mobil Oil Corporation in the tradition of Horatio Alger. If that much of the American dream proved to be correct, then why not the rest of it? Such an assumption would cast Tavoulareas in the part of the quixotic idealist who agrees to lay aside his blackjack because he believes himself in the presence of gentlemen. This is an engaging possibility, but it requires a further assumption of innocence and naiveté that doesn't coincide with Tavoulareas's reputation for bargaining with Arabs. Neither does it coincide with the oil industry's preference for monopoly dressed up in the pieties of free enterprise.

It thus becomes equally possible that Tavoulareas agreed to serve as a member of the advisory board because he thought he could gain an easy victory over people whom he imagined to be his enemies. Most of the other members of the board he characterized as "sweet do-nothings" and "weak humdrums," the kind of men appointed to ornamental councils and commissions precisely because they could be counted upon to exchange platitudes and sign whatever statement was put in front of them. Tavoulareas could rely on his tactical skills, on his willingness to insult people, and on a research division within his own company that could provide the glut of statistics necessary to refute the work of Freeman's consultants.

As long as he believed that his deal was with the foundation instead of with Freeman, that if anything went wrong he could fix it with the people who mattered (with Bundy or the Board of Trustees), then Tavoulareas may have had reason to think that his views would prevail. Unfortunately, he missed the point of modern politics and failed to recognize the alliance between foundations and the wandering moralists upon whom the foundations lavish money and patronage. In a country where the traditional forms of politics have become suspect (vide the antipolitical credo of such otherwise different people as Messrs. Nixon, Carter, Agnew, McGovern, Nader, and Brown), political authority comes to reside in organizations pretending to exist in a realm beyond politics—in consumer groups, Presidential commissions, public-opinion polls, universities, and, most conspicuously, in foundations. Given the loud ignorance of the media, in which strident and competing voices all claim to be the voice of truth, the foundation remains one of the few American institutions that can validate the claim to authority. This works to the advantage of the technocratic interest, which abrogates to itself the prerogatives of government by purporting to reach technological solutions without having to confront the stubbornness of human needs, interests, or emotions. Behind the facade of impartiality, the weight of money and influence shifts to people who affect to despise politics.

The Ford Foundation spends as much as $100 million a year ($200 million before the recent reductions) for a multitude of studies, programs, symposia, seminars, and social experiments that seek to identify and shape the public interest. It would be foolish not to assume that the projectors of these visions don't hope to impose a political design on what they perceive as the careless disorder of events. No doubt this is to be expected, and probably nothing can be done about it. Money is politics, and politics is money, and research studies tend to flatter the self-interest, as well as the social conscience, of the buyer.

Anybody given to the construction of conspiracy theory could draw lines of connection between a great many of the people beholden to the Ford Foundation, between the programs supported by the Public Broadcasting System and the books published under the aegis of the Brookings Institution, between money spent for scientific research and the questions that politicians identify as useful. The money disbursed by the Ford Foundation since the advent of McGeorge Bundy in 1966 amounts to more than $2 billion. Although this does not seem so large a sum when compared to the federal deficit, or even to the annual budget of New York City, it should be remembered that ambitious metaphysicians trade at small prices, sometimes for nothing more than an invitation to Aspen to take part in a symposium or their names printed on a letterhead. The credentials qualify them as oracles of the received wisdom, which, if properly advertised, can be changed into money and votes.

IV

The energy project's advisory board held the first of its eleven meetings in Washington in July of 1972. Within a few months it became obvious to several members that Freeman was directing the study toward a predetermined conclusion. Freeman's choice of consultants, his casting of the argument along conservationist lines, his insistence on a program of social justice—all of it foretold the advent of an ideological tract. Philip Hughes, the assistant comptroller general of the General Accounting Office and one of the two federal bureaucrats on the board, accepted the politics of the project as nothing out of the ordinary.

"Everybody knew at the beginning," he said, "that the point of view would be Freeman's."

Inclining to agree with Freeman's bias in favor of big government, Hughes found the discussions "enjoyable and educational . . . not nearly as rough" as the arguments with which he was familiar in Washington. Harvey Brooks, the dean of engineering at Harvard, also understood that "what Freeman wanted all along was a political document." He improved as many draft papers as he found time to edit or correct, in the meantime consoling himself with the knowledge that the final report wasn't "nearly as bad as it might have been if Freeman had been allowed to write everything he wanted to write."

The meetings moved around the country, convening in places such as Aspen or Santa Barbara. The views of the sea or the mountains apparently did little to improve the quality of the argument.

As Tavoulareas gradually recognized the weakness of his position, he began to beat his fists on tables and make strident accusations. Having underestimated the strength of his opponents, he failed to understand that the noisiness of his protest confirmed the nonaligned members in their worst suspicions. If Tavoulareas complained so much, then clearly he must be hiding something, and so Freeman must be right in his definition of the oil industry as a conspiracy of thieves. Tavoulareas also failed to anticipate the indifference of the less opinionated members toward a measurable result. What did it matter to them where the argument came out? What did it cost them? Nor could Tavoulareas intimidate them with threats of public exposure. Such a tactic might work against businessmen habitually frightened of "what people might think," but the academic reputation waxes and grows fat in the soil of controversy. The more widely known a professor's name, the more valuable his opinions become, and the more often he will be invited to sit on advisory boards. Given the climate of opinion in the country in 1972 and 1973, few people could fail to gain anything but honor if they were known to be despised by the president of the Mobil Oil Corporation. Talking to several members on this point, I had the feeling that they smiled pityingly among themselves about what they came to regard as "Tav's harangues." They remembered him as "consuming more than 25 percent of the time" in rhetorical tirades, as "unreasonable," "overbearing," and "always loud." McCloskey extended the general observation into a metaphor, choosing to see in Tavoulareas the literal embodiment of the industrial interests laying waste the virgin wilderness. A year later, rocking back and forth in his chair, Tavoulareas found it almost impossible to describe his feeling of frustration and anguish.

"It was a nightmare," he said. "The whole thing was a goddamned nightmare. The monstrous presumption of those people. Everybody was an instant expert on everything; on oil, on foreign policy, on the Middle East, for Christ's sake. None of them knew a goddamned thing."

At the meeting in Santa Barbara in February of 1973, not only Tavoulareas but also three or four other members of the board threatened to resign. Even the moderate members mumbled about their integrity being impugned. The occasion for their distress was a speech that Freeman had delivered in January to the Consumers Federation of America. Identified in newspaper accounts as the director of the Energy Policy Project, he was quoted as making a number of political statements—about the Nixon Administration, the oil-import quota, the price structure of the energy industry. Ames remembered the speech with acute embarrassment.

"It was not the kind of speech you'd want a study director to make," he said. "Freeman was given complete freedom, but . . . people who receive that kind of freedom . . . have a responsibility to exercise it wisely."

Again he was apologetic, conceding that many people at the foundation had been dis-

appointed in "Dave." He explained that prejudicial statements compromised Dave's credibility as an objective and open-minded researcher into the energy question. Smiling as brightly as possible, and with the familiar strain of nervous laughter in his voice, Ames said:

"It was an eye opener for all of us. We realized that Dave really was an active participant, and that gave us a real problem."

It was a problem that the foundation made little attempt to resolve. The advisory board insisted that Freeman make a public apology, which he did on February 6 by issuing a statement (largely ignored by the press) to the effect that he regretted the way in which his speech might have been interpreted. A few days later he was summoned to New York for what Ames described as "a lively and active discussion" with McGeorge Bundy. Beyond that the foundation did nothing but hope that the controversy would go away. Nobody suggested that the study be abandoned or that Freeman be replaced.

"We swallowed hard and went on with it," Ames said. He offered the usual explanations: that so much money had been spent, that there was a public purpose to be served, that the question of energy was becoming more and more important to the national interest. The explanations were those of a man who feels himself subservient to forces beyond his knowledge or control. The spectacle of the Ford Foundation pleading helplessness, as if it were a friendless salesman standing in line at a welfare office, seemed to me either difficult to believe or a testimonial to its disassociation from the political reality that the foundation so devoutly wished to shape into monuments of the public happiness.

Having made his apologies, Freeman continued to do as he pleased. Throughout the whole of 1973, he testified before Congress on numerous occasions and maintained a market in information for newspaper reporters and Congressional staff assistants. The working papers submitted by consultants to the project he systematically leaked to interested politicians. One of his most frequent correspondents was a man named Ed Morrison, the legislative assistant to Charles Vanik, a Democratic Congressman from Ohio. Vanik is an influential member of the House Ways and Means Committee, a man known for his interest in energy and the environment, and Morrison had been his primary source of information since 1972. Freeman conferred with Morrison throughout the early phases of the Energy Project, briefing him with particular reference to automobile efficiency, tax credits for buildings with improved insulation, and a federal trust fund for the development of alternative sources of supply. Morrison acknowledged the far-reaching effect of Freeman's thinking among people on Capitol Hill.

The same point was made by Rep. Joseph L. Fisher, Democrat of Virginia, who had been a member of the project's advisory board. Fisher had been named to the board in his capacity as former president of Resources for the Future, Inc. (an environmental group funded in large part by the Ford Foundation); elected to Congress in November 1974, he was appointed to the Ways and Means Committee and assigned responsibility for organizing debate on the energy bill. As a preliminary to this task he presented each of the members with a copy of *A Time to Choose*.

That much of Freeman's information became outmoded as a result of the Arab-Israeli war in October 1973 apparently didn't make much difference, either to Freeman or his correspondents in Congress and the press. The economic analysis in the final report estimates the price of oil in the Persian Gulf at $7 a barrel; at the time of the report's publication the price had risen to $11 a barrel, but Freeman didn't bother to change the numbers. When asked whether he had reached his conclusions before embarking on the project, he dismissed the question as one of slight importance.

"I won't say that I didn't have some feel for the subject," he said. "But what matters is whether the conclusions are right . . . whether they will stand the test of time and public scrutiny."

Those are not the questions that would occur to a man of scientific mind, to whom the test of time seems impossible and the value of public scrutiny irrelevant, and so I think it fair to assume that Freeman approached the study in the spirit of a political reformer. Such an attiude would explain his mood of exaltation, as if what mattered was the vindication of a social philosophy. The death of Goliath signified the birth of a new order.

"We were ahead of the issue," he said. "I knew that the country was in trouble, that we were wasting energy, that Tavoulareas's economy had gone to pot. We are trying to put it back together."

V

At its final meeting on August 5, 1974, the project's advisory board, finding that Freeman's bias was deeply embedded in the text of the report, required him to include a series of specific recommendations. Although originally conceived as an open-minded examination of all the factors relevant to an energy policy, the report quite clearly wasn't any such thing. Any pretense to objectivity might have been cause for embarrassment.

As with so much else about the Energy Policy Project, the final difficulty was placed in its most flattering perspective by Marshall Robinson, a vice-president of the foundation who became director of its Office of Environment in 1973 and was thereby responsible for Freeman's report. By the time I went to see Robinson in early 1975, the report already had begun to come under attack in academic circles. People were talking about its poor scholarship and about the chance of the foundation being embroiled in a political scandal. Older than Ames and far more practiced in the bureaucratic arts, Robinson was a tall and handsome man who carried himself with the erect posture of a military officer. Such was the graciousness of his manner that he managed to express a number of contradictory attitudes within the compass of a single gesture. He was sorrowful and yet hopeful, embarrassed and yet forthright, wistful and yet admonishing, delighted to talk about the project and yet wondering why it couldn't be forgotten.

The controversy that had attached itself to the project, he said, was so unfortunate, so unnecessary, so obviously not the foundation's sort of thing. The rumors of recrimination distressed him.

"It would be a mistake," he said, "to place subsets of unhappiness too high in the general assessment of a process."

So many aspects of the study seemed to Robinson cause for regret—Freeman's failure to provide a decent set of notes, what he called "the irrelevant social philosophizing" about corporate enterprise, the reluctance of the advisory board to deal with anything but procedural questions—that he found it difficult to choose among them. Even so, he was especially wistful about the matter of Tavoulareas' dissent. Of course Tavoulareas was right about that, "in a strictly literal-minded way, you understand," but nobody else had interpreted the agreement as an invitation to write a book of his own. Such a thing had never happened before, not in all of Robinson's experience with foundation affairs.

"I can't imagine why a man with Tav's sophistication and experience would get worked up over something as small as this," Robinson said. "He's used to winning or losing hundreds of millions of dollars a day in the routine of the oil business. He knows that you win some and lose some." If any fault was to be found, he said, it was probably with the advisory board's willingness to conceal its divisions from itself. The members allowed their emotions to get tangled up in everything, and yet they didn't acknowledge the presence of those emotions—which was a pity, of course, but probably the result of everybody on the board being "such nice guys." He reminded me that when a group of people set forth on the "high road of energy policy," some of them must, of necessity, suffer casualties.

"A foundation study," he said, "is not a zero-sum game."

In the same way that Robinson sought to minimize the political or scholarly questions raised by the study, he spoke of both Freeman and Tavoulareas in terms of the affectionate diminutive. Referring to them as "Dave" and "Tav," he smiled tolerantly when informed of their reckless talk, as if he were being told about the harmless pranks of somebody else's children. Poor Dave. Poor Tav. Neither of them really understood the purpose of the study. Certainly they made "important contributions," but they exaggerated their own and the study's place in the scheme of things. Of Tavoulareas, he said:

"Tav didn't have what I would call an instinctive understanding of advisory committeeship."

Of Freeman, he said, "We had hoped that Dave would be more mature than that, that he would do something about his stylistic behavior."

Robinson discounted as nonsense the possibility of the report achieving a political result. It was, he said, a small and inconsequential thing, a few thousand words floated off into the void of the general confusion, a tiny voice crying out in the wilderness of the national energy debate. He conceded that much of what Freeman had written was "simply awful stuff," but he couldn't imagine how it could do any harm. It didn't matter that the foundation had arranged to distribute 300,000 copies of the abridged text through the Book-of-the-Month Club, or that the Consumers Union had chosen the final report as its January book selection.

"The intelligent reader," Robinson said, "will see through it."

So often with studies of this kind, he said, the prejudice conceals itself in the language, in inferences rather than direct statements, and so the board thought it prudent to "smoke Dave out . . . to get his agenda on the table."

When I mentioned this subtlety to Freeman, he permitted himself a thin smile.

"If that is what they want to think," he said, "I see no reason to contradict them."

Freeman believed that his cause and his generation had prevailed against the primordial night of capitalist superstition. If so, then he could afford a gesture of condescension toward those whom he thought he had rescued from their own stupidities. Freeman accepted it as an article of faith that "Tavoulareas's economy" (i.e., the notion of free enterprise and its attendant miseries) soon would be superseded by a more equitable division of wealth.

"The public debate has come our way," he said. "The government has embraced our ideas."

In retrospect the statement reads like the stuff of prophecy. Freeman sent a copy of *A Time to Choose* to the then Governor Carter in late 1974, and he had heard that the governor carried the volume around with him as if it were as precious to him as the writings of Reinhold-Niebuhr. In the summer of 1976, Freeman went to Georgia to help Mr. Carter with policy. He stayed to become a member

of the team that wrote the energy plan. Accounts published in the newspapers suggest that the plan was brought forth in an atmosphere of secrecy and mistrust. It was written by government functionaries, by lawyers and academics, almost all of them, like James Schlesinger (President Carter's nominee as chief of the new energy agency), representatives of the technocratic interest. As the subsequent debate has made plain, the planners apparently didn't find it necessary to talk to people unlike themselves—not to politicians, not to officials in the Department of Transportation and the Treasury, not to oil-company executives, not to anybody who might violate the purity of their moral vision. As might have been expected, they assigned the task of allocating the national resources to a government bureaucracy employing 20,000 people and requiring an annual budget of $10.5 billion. This bureaucracy presumably would fall to the direction of officials possessing a sufficiently high degree of conscience to adjudicate the noisy and competing claims of citizens less fortunate. The plan endorsed, almost as an article of religious faith, the principle of energy conservation and reserved the government's right to restrain all forms of unauthorized development and to demand equal sacrifices from all social classes and interest groups.

VI

Whether Tavoulareas foresaw President Carter's plan I have no way of knowing, but something very much like it clearly was foreseen by John Harper, the president of ALCOA. Another of the members of the advisory board, Harper also had been appalled by the implications of Freeman's thinking, but, unlike Tavoulareas, he had made no complaint about the limits of his dissent. Within the space allowed he said plainly that "the premise of government control . . . is abhorrent to me and, I am sure, to most of the people in this nation." The assumptions underlying the report seemed to him consistent with a totalitarian definition of the state, and this he also mentioned in his dissent: "Such controls, no matter how well-intentioned they may be, could cost Americans their economic freedom of choice, and—inevitably—their political liberties as well."

Harper brooded on the matter throughout the autumn of 1974; when the chance offered itself in December, he willingly raised money for a scholarly repudiation of Freeman's report. Subsequently entitled No Time To Confuse, this counter-study was published in March 1975 by the Institute for Contemporary Studies in San Francisco. It consisted of ten academic commentaries from, among others, Morris A. Adelman, professor of industrial management at MIT and a well-known critic of the oil industry; Herman Kahn of the Hudson Institute; and Walter J. Mead, professor of economics at the University of California at Santa Barbara. Mead had been a consultant to the Ford Foundation project, but his unhappiness with Freeman's interpretations of his work prompted him to resign. The introductory essay to No Time To Confuse describes Freeman's report as an all but worthless ideological tract—"arrogant and paternalist" in its assertions of what comprises the public welfare, deserving of inclusion in "the Guinness Book of World Records for the most errors of economic fact and analysis" in one volume. The subsequent articles become both more specific and more derisive. Several contributors cannot refrain from observing that the report shows little understanding either of the working of the free market or the mechanism of a successful cartel. Other contributors remarks on the report's failure to note a connection between supply and demand.

The conception of the counter-study appears to have derived from a fairly extensive feeling of revulsion within the community of professional economists. During the summer of 1974 J. Clayburn LaForce, the chairman of the Department of Economics at UCLA, heard increasingly vivid rumors about the shoddiness of Freeman's report. Economists employed to do consulting work for Freeman spoke to LaForce of the way in which their findings had been declared unacceptable because they failed to conform to the ideological specifications. People said that the report was so badly done that it constituted an insult to the profession.

"But the thing itself," LaForce said, "was much worse than the worst rumors."

LaForce approached the Institute of Contemporary Studies with the notion of publishing a rebuttal because he was convinced that Freeman's report was "likely to become an influential handbook for people running around Washington." He was further convinced that much of the trouble in the country followed from the bad legislation written by eager but misinformed politicians. The academic unhappiness with Freeman's economic analysis coincided with Harper's uneasiness about Freeman's political vision. The institute took advantage of the common discontent to raise the $30,000 necessary for the publication of *No Time to Confuse*. A. Lawrence Chickering, the executive director of the institute, approached a number of sizable corporations with the information that it was in the interest of the business community to repudiate the Ford Foundation attack on its traditonal freedoms. He went to corporations that had as little as possible to do with the production of energy (in order to avoid the appearance of too parochial a complaint), and in response to his political hypothesis (presumably confirmed by the discreet witness of John Harper), the institute received about $3,000 each from the ALCOA Foundation, American Telephone and Telegraph, Continental Can, the John Deere Foundation, E. I. duPont de Nemours, IBM, International Harverster, Deering Milliken, Monsanto, Proctor and Gamble, Sears Roebuck, Southern Pacific, and the Union Carbide Corporation.

All of these are corporations of great wealth and influence in national affairs, and all of them are presumably administered by men of intelligence and public acumen. And yet, with its habitual inability to understand the politics of the media, the older class bungled the announcement of its bad news. Chickering went to Washington and convened a press conference, but the publication of *No Time to Confuse* passed almost without notice in the press. His friends in the profession later explained he should have "orchestrated" the release of his information, that he should have leaked it in bits and pieces of salacious gossip to the Style section of the *Washington Post* or to the important columnists in town. Having thought that "the ideas made a difference," Chickering was alarmed by what he discribed as "the theatricality of journalists." He neglected to mention the names of the corporations that had put up money for the counter-study, and by so doing he lost the chance of presenting the Ford Foundation as a villain.

In April of 1975 I went to see McGeorge Bundy. So many aspects of the Energy Policy Project seemed so unusual—the possibility of a political motive, the public outcry of an oil-company president, the embarrassment of Robinson and Ames, Freeman's exaltation and glee, the publication of a foundation study for the express purpose of discrediting another foundation study—that I looked to Bundy as to a light in the darkness. He received me in the Roman manner, reclining on a low couch and smiling the enigmatic smile of a man who knows much but tells little. I never know what to make of men who adopt that pose; sometimes it signifies benign omniscience; at other times it tempts the foolish into the abyss of error. With regard to Bundy, I had read testimony on both sides of the interpretation. His admirers described him as a political bureaucrat of incomparable subtlety. In support of their praise they mentioned Bundy's success in the world, pointing out that he had been born to a Boston family of high intellectual attainment, that he had become dean of Harvard College at the age of thirty-five, that he was the most brilliant of the advisers to the late President Kennedy, and that he could read Herodotus in Greek. His critics mentioned the effect of his success on other people. They spoke of his enthusiasm for political assassination and the Vietnam war, of his committing the Ford Foundation's investment portfolio to a policy of adventurous expansion at precisely the point, in late 1963, when the stock market began to collapse.

Probably it is unfair to form impressions of a man on the basis of circumstantial evidence, but the day on which Bundy granted me an audience was not a favorable one from the point of view of his admirers. The papers that morning published accounts of the retreat from Danang. The news was of people moving south, of Americans departing on helicopters, of Vietnamese killing each other as they clawed at the gunwales of the last boats. Another article on an inside page of the *New York Times* explained that a loss of assets had obliged the Ford Foundation to dismiss 300 employees and reduce by one-half the budget of its philanthropy. None of this news was reflected in Bundy's thin and distant smiling. Like Marshall Robinson he sought to minimize, diminish, and make small, but, unlike Robinson, he offered no apology. He did what he could to conduct a cordial conversation, but he left the distinct impression that we were talking about an animal left dead in the street. Of Tavoulareas and his incessant complaint, Bundy said:

"People employed in private enterprise are always surprised that other people have opinions. They haven't had the tempering that results from government service."

His tone of voice implied that the narrow-mindedness of businessmen could be ascribed to their parochial interest in money and trade. As for the possibility of a political motive on the part of the Ford Foundation, Bundy laughed at the childishness of such an idea.

"If you mean lobbying for a particular point of view," he said, "certainly not. If you mean drawing attention to issues of great national interest, obviously yes."

As a general statement of principle, this satisfactorily answers the question. The difficulty with it arises from a specific application to S. David Freeman and the Energy Policy Project. Freeman's commitment to "a particular point of view" should have been apparent since 1968. By assigning him responsibility for the project, the foundation indirectly constituted itself as a lobbyist. Bundy understood that Freeman would leak the draft studies and consulting papers to members of Congress and the press. Reminding me that the foundation was accountable to the appropriate committees of Congress, to the Treasury, and to its own trustees, he quoted the 1968 legislation (which he described as "the langu ge of art") that obliges foundations to "make available non-partisan research" to almost anybody who asks for it. With what I took to be a glint of sly humor in the corners of his eyes, Bundy then said:

"If I know Freeman, he would make his findings available to anybody who would listen to him . . . at any hour of the day or night."

Together with the other people who defended the integrity of the project, Bundy

advised me against placing "an undue emphasis" on the final report. The entire project consisted of twenty-one volumes at a price of $220 in cloth and $80 in paper editions. This body of research would provide the context for "a continuing dialogue," Bundy said. He implied that it would be a mistake to assign significance to a report which, from a scientific point of view, might be construed as nothing more than an elaborate press release. Given Freeman's political objectives and the foundation's policy of extending what it likes to call "the outreach," that agrument also seemed slightly disingenuous. Only a few people would take the trouble to read the complete text. It was the final report that the foundation sought to advertise with drums and flourishes, and it was the final report that Congressman Fisher presented to the members of the Ways and Means Committee. Bundy had been informed of the publication of No Time to Confuse, but he hadn't found time to read it. The rumor of what he called its "polemical intent" did nothing but raise unpleasant questions in his mind about the people who paid for it.

"At the foundation," he said, "we do our business on the top of the desk."

VIII

If it accomplished nothing else, the inadequacy of the Energy Policy Project testified to the lack of leadership in the country and to the collapse of an idea of legitimate authority. Confronted with a problem of great complexity, a problem important not only to themselves but also to their children and everybody else in the world, the interested parties fell to arguing about who would corner the markets in heat and light. Instead of inspiring a debate about the ways in which the world's natural and technological resources might be put to the best use for all mankind, the Energy Policy Project offered a melancholy lesson in the narrowness of competing interests. Few people on any side of the argument could agree to a common system of values; neither could they refrain from describing one another with the empty slogans ("the interests," "police state," et cetera) characteristic of people who fear unseen abstractions moving around in the shadows beyond their experience or understanding. The recognition of their own weakness prompted them to affect an air of exaggerated certainty and inclined them to pursue their objectives by means of indirection.

The foundation deemed it necessary to hire Freeman as its agent in the cause of energy conservation; Freeman seemed to think of himself as a man working behind enemy lines, and the presidents of both ALCOA and Mobil appealed to the guerrilla theater of the national press. Probably the worst of the confusion had to do with the way in which the old and the new class preferred to conceive of the other as malevolent conspiracies. Freeman expressed the traditional suspicions of New York industrialists in the manner of a drawing by Thomas Nast, as if they were evil and cynical old men who could fix prices, buy governments, rig markets, and declare foreign wars. He persisted in this idea despite the chapter in his own report that could find no proof of monopoly or cabal among the major oil companies and despite his direction of the Ford Foundation Energy Policy Project to his own uses. Both Harper and Tavoulareas apparently cherished equivalent fantasies about the terrible and irresponsible power of the new class. They envisioned zealous bureaucrats ((intelligent, pious, underpaid) dictating changes in the law from within the strongholds of the SEC, the IRS, and the Department of Justice. Like many other members of the merchant class, they had come to think of Washington as the seat of socialist heresy. Together with Freeman, they insisted on the truth of their vision, despite the evidence to the contrary. The energy bill drafted by the Ways and Means Committee in 1975 never had a chance of even reaching a vote in Congress, and the present evidence suggests that, except in severely modified form, President Carter's plan has equally little chance of becoming law.

It promises so many things to so many different and irreconcilable interests that obviously it satisfies nobody. Economists of the Right referred to the plan as a "bureaucrat's delight"; economists on the Left suggested that the plan would provide government subsidy and a protection of markets for the major oil companies. A critic as astute as Barry Commoner goes so far as to say that the effects of the plan would betray its rhetoric: that it would save little energy, favor the rich over the poor, stimulate the development of nuclear energy, place unbearable demands on the nation's dwindling supply of investment capital, encourage both unemployment and inflation, and generally make possible the catastrophe that it seeks to avert.

Although I hold no brief for the merchant class and its habit of blind rapacity, I cannot see how a policy of "zero growth" can do anything but lead to even more savage result. People want what they want, and they will pay whatever prices they must, and so it is no use trying to tell them what's good for them. Like Prohibition and other governmental attempts to justify man's ways to God, the National Energy Plan presumably would accomplish a purpose contrary to the one intended. Given a limited supply of goods, people compete more fiercely for the smaller number of jobs, freedoms, and opportunities. They would place an even heavier reliance on money because money would provide them with the only defense against the officiousness of government. In an open and expanding society, people will pay their taxes, study the odds, and try to improve their lot; within a closed society, they have no choice but to kill each other. This also can be construed as an equivalent of war, but I doubt whether it is one that Mr. Carter would smilingly describe as moral.

EDWARD MEZVINSKY'S NEW POST

Mr. CULVER. Mr. President, when a Presidential appointment places precisely the right individual in an important governmental post, this happy circumstance deserves to be noted. President Carter's appointment of former Congressman Edward Mezvinsky of Iowa to be U.S. representative to the United Nations Human Rights Commission is such a case. Ed Mezvinsky, whom I have known for many years, is a person of extraordinary ability and compassion whose devotion to human rights through the years eminently qualifies him for this sensitive position.

His service on the House Judiciary Committee during the constitutional crisis a few years ago will be long remembered as a reflection of his personal integrity and sincerity. President Carter, who has made human rights a cornerstone of U.S. policy, deserves great credit for this outstanding choice. An editorial in the Des Moines Register of July 22, 1977, indicates the strong approval of Mr. Mezvinsky's appointment in his home State. I ask unanimous consent for this editorial as well as a July 24 news story from the same paper to be printed in the RECORD.

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

[From the Des Moines Sunday Register, July 24, 1977]

ED MEZVINSKY'S NEW JOB: BENDING CARTER'S EAR ON HUMAN RIGHTS

(By James O'Shea)

WASHINGTON, D.C.—You can find former Iowa Representative Ed Mezvinsky in Washington these days in an office on the top floor of the State Department where U.S. Ambassador Andrew Young, "department spokesman" Hodding Carter, Jr., and other big names hang their hats.

The reason is that Mezvinsky was appointed by President Carter last week as the U.S. representative to the U.N. Human Rights Commission. And, as his present surroundings indicate, the job is likely to become a lot more important than it was in the previous administration, when it was little more than a title.

As one of the two major advisers on the progress of human rights in the many nations around the world, Mezvinsky will have the President's ear on a subject that clearly has become the cornerstone of Carter's foreign policy.

HIS RESPONSIBILITY

If, for example, the President is wrestling with a decision on whether to sell arms or grain—or to grant financial aid—to some nation, Mezvinsky will be responsible for analyzing that nation's human rights record for the President.

As recent events have indicated, a bad human rights record is no longer ignored, as many say it was when Henry Kissinger headed the State Department.

Instead, Carter is attempting to infuse the notion of human rights into the practical world of international politics. And Mezvinsky—as spokesman for human rights at the U.N., as co-ordinator of human rights between the State Department and the U.N. and as head of the U.S. delegation to the Human Rights Commission in Geneva, Switzerland—clearly will play an important role.

Perhaps the first big task he faces is helping develop the issues to pursue at the Belgrade conference on the Helsinki accords this fall. At that conference, human rights could become "the" hot topic of international diplomacy, largely because the purpose of the conference is to review compliance with the human rights portions of the agreements, which could prove embarrassing to the Soviet Union.

WESTERN RESPONSE

The inclusion of human rights in the Helsinki accords in the first place was a U.S.-Western European defensive response to continued Soviet pressure in the 1960s to settle the first major portion of the agreements: Security and recognition of post-World War II boundaries of Europe.

The Russians wanted to settle the boundaries, and the West agreed to the conference only if human rights was made part of the agenda. So the Russians, who also wanted to initiate trade and scientific exchanges—the second major portion of the Helsinki accords—went along with the West's wishes on human rights, the third portion of the agreements.

Now, however, the Soviet concession has turned into an embarrassment for the Russians, for the Soviet dissident movement has used the human rights agreements at Helsinki as a rallying point.

The Russians now are maneuvering in preliminary conferences to limit the amount of time spent on discussion of each part of the agenda to curb talk about human rights.

DEVELOPING ISSUES

Mezvinsky says the State Department now is developing the issues to pursue in detail.

Although some critics in the U.S. and in other parts of the nation have criticized U.S. human rights initiatives as "meddling in other countries' affairs," Mezvinsky disagrees. Mezvinsky says he doesn't think the charge is valid so long as the nation is one of the 35 that signed the Helsinki accords.

Mezvinsky says he thinks the issues that will come up at Belgrade probably will determine the major thrust of debate at the U.N. in the next session.

Mezvinsky, who will be paid $47,500 a year in the new job, says he will spend much of his time talking "with our friends and allies, seeing what is on their minds, what is bothering them." He says one goal is to try to get other nations to speak out on human rights so the U.S. can support them instead of always being in the forefront.

He says part of his new job could be calling on some of his former colleagues in the House, where he was a liberal congressman for two terms before being narrowly defeated in 1976 by James Leach, a Davenport Republican.

One of those former colleagues could be fellow Democratic Representative Thomas Harkin of Iowa. Harkin is an advocate of using U.S. aid as a weapon in support of human rights throughout the world. He has campaigned for laws that prohibit financial assistance to countries with "a consistent pattern of gross violations of internationally recognized human rights" unless the assistance will directly benefit needy people.

Carter has responded by saying he needs more "flexibility" in dealing with other nations than Harkin's view permits.

Mezvinsky says he has "empathy" with Harkin's position and thinks that U.S. aid should be used to force compliance with basic human rights. However, he agrees that the President needs flexibility, and that each case should be reviewed on an individual basis.

Mezvinsky admits that the Carter administration faces many problems in forging a new policy. "How do you take each country and respond to each situation, yet still make it clear that the nation is committed to human rights?" he said.

"I don't think it will do any good to restate the definition of human rights. We have to find out how do we apply that definition to different countries. You know, economic rights are human rights, too. What becomes more important—food or aid?"

PROBLEM COUNTRIES

Mezvinsky said the administration will have problems with countries like Iran, a major source of oil for the U.S. whose Shah recently was the subject of demonstrations here staged by Iranian students, who were complaining of his human rights policies.

"And, of course," he says, "this will be a test of whether we mean what we say. Being concerned with human rights elsewhere probably will force us to review our own human rights policies, too. I'm sure other countries will demand that of us."

Mezvinsky says his primary responsibility will be multilateral human rights policy while bilateral policies will continue to be under the direction of Patricia Derian, the State Department's co-ordinator for human rights and humanitarian affairs. Both are the administration's main human rights advisers.

[From the Des Moines Register, July 22, 1977]

. . . AND FOR MEZVINSKY

Edward Mezvinsky, former congressman from Iowa, is a good choice by President Carter for U.S. representative to the United Nations Human Rights Commission. President Carter plans a long-term effort to improve human rights in the world; the U.N. commission is one of the logical channels. An able, committed, energetic U.S. representative like Mezvinsky should be a big asset.

As an article elsewhere on this page points out, the U.N. commission badly needs rejuvenation. It has been floundering much of the time since it drew up the Universal Declaration of Human Rights under its first chairman, Eleanor Roosevelt.

The splendid Universal Declaration of 1948 was not a binding promise by U.N. member governments to observe human rights, but merely a "standard of achievement for all peoples and all nations." In the years since its adoption the commission has done much on paper, but little in practice for human rights.

It ruled early that it had "no power to take any action" on the petitions that come in by the thousands each year. It had a hand in drafting 19 binding agreements on various aspects of human rights, the most comprehensive being a Covenant on Civil and Political Rights and a Covenant on Economic, Social and Cultural Rights.

The two covenants were not completed until 1966 and did not get enough ratifications to go into effect among ratifiers until 1976. The United States has not yet ratified them, though President Carter is urging it.

All 19 U.N. human rights agreements are weak in enforcement provisions. They depend mainly on the good faith of member governments. The U.N. uses its moral pressure mostly against a few politically selected targets: Rhodesia, South Africa, Israel and Chile.

Only a tiny minority of U.N. member governments have effective human rights provisions for their own citizens.

But now, when most of the world's governments are at last committed on paper to binding promises on human rights, is a good time to start talking about practice. Mezvinsky will be working in Washington in the State Department, in New York in the U.S. mission to the United Nations, in Geneva with the U.N. Commission on Human Rights. It is a big job. It is bound to be a frustrating job. But there is a chance for real achievement.

"UNOFFICIAL OFFICE ACCOUNT"

Mr. DOLE. Mr. President, funds from my "unofficial office account" have been utilized on a nonpartisan basis to help meet expenses incurred by my Senate office operation. All expenditures have been made in accordance with "old" Senate rule 42, and records on the account are maintained by Dean Crawford, a CPA, in Lawrence, Kans.

In accordance with the provisions of the Senate Code of Official Conduct and new Senate rule 46, which became effective April 1, 1977, not only were no contributions received into this account after April 1, but in anticipation of these new rules governing such accounts, no contributions were received for the entire year. We are presently in the process of closing out the account completely, and the few remaining funds will have been disbursed prior to December 31, 1977. In the meantime, approved expenditures from present funds in the existing account have been and will be made in accordance with the provisions of rule 46.

In accordance with the reporting requirements of "old" Senate rule 42, I ask unanimous consent that the semiannual balance sheet statement for the first 6 months of 1977 on this account be printed in the RECORD. Additional information on the operation of the account or specific entries is available upon request.

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

Account balance, Jan. 1, 1977	$650.83
Income	None
Disbursements:	
Printing	109.46
Repairs	5.00
Newspapers	87.00
Videotape rent	50.00
Accounting services	30.00
Total disbursements	281.46
Account balance June 30, 1977	369.37

HOWARD CALLAWAY

Mr. BUMPERS. Mr. President, in its July issue, Harper's magazine devoted considerable space to last year's Interior subcommittee hearings on the conduct of Howard Callaway in connection with his Crested Butte, Colo., ski area.

The article concluded that neither the hearing nor the subcommittee's conclusion was justified. The Wall Street Journal and several columnists assumed the accuracy of the magazine article and joined in criticism of the hearings.

Mr. President, an objective analysis of the article shows that it lacks balance. This objective analysis is set forth in an article which appeared on July 17, 1977, in the Atlanta Constitution under the byline of Joseph Albright. Unlike the author of the Harper's magazine article, Mr. Albright took the time to discuss the facts with those involved in the hearings.

Clark Mollenhoff, one of Washington's most respected columnists—and one who frequently finds himself on the conservative side of issues—also addressed the question. Mr. Mollenhoff concludes that the subcommittee had an absolute duty to investigate and would have been negligent had it failed to do so. If such investigations often have partisan overtones, Mr. Mollenhoff continues:

> It is an unfortunate fact of political life that the American people usually must rely upon Republicans to lead the way in investigations of Democratic wrongdoing and upon Democrats to provide the leadership where Republican wrongdoing is the issue.

That was precisely the case, he notes, in the congressional investigations of Air Secretary Harold Talbott in the Eisenhower administration and of Navy Secretary Fred Korth in the Kennedy administration.

Mr. President, I certainly commend to my colleagues the column by Mr. Mollenhoff and the news article and ask unanimous consent that both be printed in the RECORD.

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

WATCH ON WASHINGTON

(By Clark R. Mollenhoff)

WASHINGTON, D.C.—In recent weeks there has been considerable unjustified public bleeding by a few conservative columnists and some others over what is called "the political persecution" and "character assassination" of Howard (Bo) Callaway.

It is contended that Callaway, former Secretary of the Army and director of President Ford's presidential campaign, was the faultless victim of a political assault by a vicious cabal of Senate Democrats.

The articles document quite persuasively that the Democrat-dominated Senate Interior Subcommittee would not have launched the investigation of Callaway if he had not been a prominent Republican.

But, the case falls apart when the writers conclude that this was persecution or character assassination because the Democrats were eager to investigate Callaway's use of his political connections to further his financial interest in a Colorado ski resort.

Some of the columns and a Harper's magazine article demonstrate either a superficial understanding of Callaway's role or a Republican partisanship that is as blind as the Democratic partisanship they sought to condemn in the members of the Senate Interior Committee.

A careful analysis of the record demonstrates that Callaway deserved to be investigated on the basis of what he admitted about his use of political connections to further his financial interest in Crested Butte ski resort.

Bo Callaway admitted:

1. He used his Secretary of the Army stationery in correspondence to push a favorable decision from the Agriculture Department on use of 2,000 acres of forest land for his ski resort.

2. He met in his Secretary of the Army office at the Pentagon with three Agriculture Department officials—two of them former political friends from Georgia—to discuss means of expediting a Forest Service decision for Callaway's ski resort.

3. His meetings and correspondence with former Undersecretary of Agriculture J. Phil Campbell and former Deputy Undersecretary Richard Ainsworth—both Georgians—was to seek use of 2,000 acres of forest land to expand his ski resort.

4. Following his intervention the Forest Service reversed a prior position to give his Crested Butte ski resort use of the forest land.

It was a situation that merited a depth congressional investigation regardless of whether Callaway was a Republican or a Democrat.

If the Interior subcommittee had not conducted an investigation, it would have been negligent and would have seemed to approve or condone Callaway's callous misuse of his position for personal financial advantage.

Without judging Callaway's motivation, it was at a minimum an insensitivity to the conflicts-of-interest situations that Democrats had condemned in Air Secretary Harold Talbot in the Eisenhower Administration and that Republicans have criticized in Navy Secretary Fred Korth in the Kennedy Administration.

Partisan politics—the desire to make political capital out of the other political party's mistakes—is present in nearly every meaningful investigation of the Executive Branch.

It was partisan Democrats in the Democrat-controlled Congress who provided the impetus for the probe of the Nixon White House involvement in the Watergate burglary. In the months that followed the Senate Watergate committee established the documented record that convinced all but a few die-hard Nixon fans that President Nixon was personally involved in a criminal obstruction of justice.

Watergate was the two-party system operating in traditional fashion with some Democrats eager to explore every scrap of evidence of wrongdoing or impropriety, and some Republicans resisting in a manner that assured Mr. Nixon would be given ample opportunity to explain all the charges against him or his administration.

The same general statement can be made to cover the Callaway ski resort investigation. The facts justified an investigation, and partisan political feelings helped achieve a meaningful inquiry.

It is an unfortunate fact of political life that the American people usually must rely upon Republicans to lead the way in investigations of Democratic wrongdoing and upon Democrats to provide the leadership where Republican wrongdoing is the issue.

If the facts do not justify an investigation it usually will become apparent to the public before an investigation is completed, and the wronged political figure will find many forums for dramatizing any real political persecution.

The major problem for the voting public is not that there are partisan political persecutions of Republicans by Democrats or Democrats by Republicans. It is the tendency toward bipartisan cover-up of bipartisan crimes and improprieties and the absence of any effective check on abuses of power by Executive Branch agencies.

The past record of Executive Branch blackmail and pressure to stop legitimate investigation is cause for concern. When it is coupled with support from bipartisan cliques of crooks in Congress it is a wonder that any investigations get off the ground.

On balance, it is better to have an overzealous or mildly partisan chairman of an investigating committee than to have a weak or corrupt chairman who is fearful of confronting the wrongdoers or is in league with them.

Although there can be differences of opinion on the gravity of Bo Callaway's improprieties, there should be no doubt about the need for the probe even if it failed to produce evidence of federal crime.

Even if no federal crime is proved, it is not "persecution" or "character assassination" to investigate a situation in which a man's actions as a public official could enhance his personal financial interests.

[From the Atlanta Journal and Constitution, July 17, 1977

Says Writer Ignored Evidence; Haskell Levels New Charge at Callaway

(By Joseph Albright)

Washington—The chief accuser of Howard H. "Bo" Callaway has responded to a critique of the Senate's Callaway investigation with a fresh charge that the former Army secretary "successfully intervened" with other government officials on behalf of his ski area.

Sen. Floyd Haskell, D-Colo., said Harper's magazine writer James Hougan ignored evidence in the record that Callaway set up a meeting in 1973 which resulted in a Forest Service decision favorable to Callaway's crested Butte, Colo., ski area.

Another figure in the Harper's article in the July issue, Sen. Frank Church, D-Idaho, issued a one-sentence statement: "Having not been able to personally participate in the hearings, I gave my proxy to Sen. Haskell because I have always found him to be a fair-minded man."

Haskell, in an interview and in a statement published in the Congressional Record, said: "There are so many distortions, omissions and factual errors in the article that they can only be explained as willful." He said Hougan twice ignored invitations to interview him on the Callaway hearings he chaired last year. The invitations were issued by his press secretary, Haskell said.

In reply, Hougan said Haskell was unavailable on five occasions when he telephoned his Senate office for information. No specific interview date was ever offered, Hougan said.

To buttress his response, Haskell quoted investigative reporter Jim Polk as telling a Denver newspaper that Hougan used "cheap shot tactics."

In Polk's view the author of the Harper's piece did "a very good job of extracting from the hearings sets of facts that support his contention and omitting quotation that would not."

Haskell's fresh charge against Callaway revolved around a 140-acre tract of public land which the Crested Butte developers sought back in 1973 to add to their ski area permit as a site for a new base lodge.

Locally, the land is known as "Tony's parking lot." By Haskell's account, Callaway went over the heads of regional Forest Service officials when his brother-in-law, who was president of the ski area, could not get permission on his own to add the extra 140 acres to the Crested Butte permit.

Haskell said: "Mr. Callaway's Oct. 5, 1973, Pentagon phone log shows that he called an old Georgia friend, Deputy Agriculture Undersecretary Richard Ashworth, to set up a meeting on Oct. 9 between ski area and Forest Service representatives in Washington. A Forest Service memo summarizing the meeting notes that 'Bo Callaway, Secretary of the Army, is one of the developers.'"

That meeting produced no immediate results. But four months later, when a Crested Butte official made a follow-up call to Ashworth, the Forest Service reversed itself within 24 hours.

The one-month recess. Haskell said Callaway's plea to terminate the hearings on April 12, 1976, was "deliberately laying the groundwork for a later charge that the subcommittee was unfair, regardless of what happened."

Haskell explained that at Callaway's request, he summoned his three Colorado constituents to the April 12 hearing so Callaway could "confront his accusers."

When a question arose of subpoenas for the three witnesses, Callaway's lawyer, Jerris Leonard, withdrew the request for testimony by the three witnesses by means of a written release, Haskell said.

The senator said the hearings were not about to adjourn anyway, since both Republicans and Democrats still intended to question Agriculture Secretary Earl Butz, who was then out of the country.

Hougan replied that in his view, Haskell deliberately used the confusion over the subpoenas to stretch out Callaway's testimony. He acknowledged that the Butz testimony was still in the offing, but said its impact would have been minimized without Callaway's return appearance.

The second vote. Haskell said Hougan knowingly published an incorrect account of why senators met a second time to vote on accepting the conclusions of the subcommittee investigation.

Haskell said the second meeting had nothing to do with allowing Sen. Church to vote in person rather than by proxy, as the Harper's article suggested. Rather, Haskell insisted, it was the result of a parliamentary hitch that made the first vote invalid, adding that his press secretary gave Hougan the real reason in a telephone interview.

Hougan replied, "It may be that my sources are wrong about this and that the second vote was purely procedural, though I doubt it." Hougan said that Haskell was "right in criticizing me for not having reported the explanation that (Haskell) gave—whether or not that explanation was a self-serving one."

Asked about Hougan's suggestion that the subcommittee merely produced innuendoes in its final report, Haskell pointed to what he called a "solid conclusion" that was not quoted in the Harper's account:

"Secretary Callaway participated in events the natural and logical effect of which could only have been to create pressures on the Forest Service to permit expansion of the ski area. Secretary Callaway's telephone calls to

Deputy Undersecretary Ashworth on a matter affecting his private business interests, Mr. Ashworth's calls to the Forest Service on behalf of Secretary Callaway, and Mr. Callaway's participation in the extraordinary meeting at the Pentagon with Undersecretary of Agriculture Campbell, Deputy Undersecretary Ashworth, and Associate Chief Resler were clearly calculated to exert pressure on the Forest Service."

In defending his motives for calling the hearings, Haskell said he never discussed the hearings with any officials of the Democratic National Committee or any Democratic candidates for president.

"When the issue first arose," Haskell said, "I carefully considered the virtual certainty that our inquiry would be labeled a political hatchet job. But I was also faced with the question of how our ignoring the situation would be viewed. Too many people harbor a deep-seated view that the government only responds to the powerful, the influential, and the well-placed.

"On balance, it seems to me the subcommittee had a duty to investigate the Crested Butte matter. The hearings were necessary to show those who mistrust government officials that their suspicions were groundless, or—if their suspicions had some basis in fact—that there is some accounting for the abuses of power and position . . ."

That meeting produced no immediate results. But four months later, when a Crested Butte official made a follow-up call to Ashworth, the Forest Service reversed itself within 24 hours and allowed the addition of the disputed tract.

As evidence that Callaway had "successfully" intervened in the case, Haskell pointed to a letter, marked "personal," in which Ashworth passed along to Callaway the favorable decision on inclusion of "Tony's parking lot."

The letter, reproduced in an appendix to the hearing record, contains a further handwritten note from Callaway to his brother-in-law transmitting the correspondence from the Forest Service.

Reached in Colorado, Callaway acknowledged that he set up the 1973 meeting on "Tony's parking lot" between officials of the Forest Service and the Crested Butte Development Corp. although he was not present at the meeting.

Callaway said: "The people who represented the ski area made a valid case for the extension of the permit through the proper channels of government, and "Tony's parking lot" was added to the ski area permit.

"It is a very, very small part of the permit. It is totally insignificant in the over-all picture, and there has never ever heard raised is the question of the timing."

As for Haskell's raising the matter now, Callaway said: "The hearings were possibly the longest hearings held by the Senate last year. The hearings discussed 'Tony's parking lot' in some detail. It is not likely that anything new could come out on 'Tony's parking lot' after such extensive hearings."

Author Hougan said he skipped over the "Tony's parking lot" controversy because the Senate hearings had concentrated largely on an incident two years later, in which Callaway met Ashworth and other Agriculture Department officials in his Pentagon office and discussed a separate expansion of the Crested Butte ski area.

Haskell's new charge on "Tony's Parking Lot" went well beyond the conclusion of his own subcommittee.

In its final report, the Haskell subcommittee said that because it had not investigated the events involving Tony's parking lot "in comparable depth," it would refrain from drawing "extensive conclusions on the matter."

On a separate question, Haskell differed from the Harper's article in his interpretation of the innocence of Callaway's meeting with the Agriculture Department officials on his final day in office at the Pentagon.

"The scene, then, was this," Haskell recounted:

"There, in the Pentagon office of the Secretary of the Army, sat the deputy chief of the Forest Service, discussing Forest Service decisions with an applicant by phone—all under the watchful gaze of two superiors from the Forest Service's parent agency and the secretary of the Army, soon to become campaign manager for the President of the United States."

Disputing Hougan's judgment that it was a mere "courtesy call," Haskell said a subsequent letter from Callaway to his brother-in-law was a "clear statement that Callaway was after something at that meeting."

In that letter, Callaway wrote: "I really couldn't get too much out of Rex Resler, associate chief forester. Every time I thought I had him pinned down, something else came out."

Among factual points in the Harper's article which Haskell disputed:

Time of the hearings. Haskell said he could not have asked the Forest Service for a formal explanation until he received a written account of his three constituents complaints. That, said Haskell, he got last January one month, not five months, before he wrote to the Forest Service. Hougan replied in an interview that Haskell had just as much information from meetings with his constituents the previous October.

INTERNATIONAL WOMEN'S YEAR

Mr. BAYH. Mr. President, State conferences on women have been occurring across this Nation for the past several months. These conferences were the preliminary step to the convening of a national women's conference to be held in Houston, Tex., on November 18. This national women's conference will be the first such convocation since the famous Seneca Falls meeting in 1848. At that 1848 meeting those concerned with the plight of American women adopted a "declaration of sentiments." Of the 12 resolutions cited in this document, only one has been instituted to date—the right of women to vote.

The State and national IWY conferences were authorized by the Congress by Public Law 94–167. In passing this legislation, the Congress hoped to establish, for the first time, true, grassroots participation by American women. Despite some of the unfortunate rhetoric on these conferences, I feel this goal has been accomplished. I understand, for instance, that of the 1,000 women attending the IWY conference in Vermont, nearly half were never members of any women's organization nor had they ever attended a meeting addressing the concerns of women.

More than 100,000 women have participated in these IWY meetings and that participation has reflected every age, racial, ethnic and religious group. There have been women from cities, from suburbs and from rural America. The conferences have included homemakers, blue-collar workers, and professional women.

As a member of the national IWY Commission, I have been concerned about some of the misconceptions concerning these IWY meetings. I am particularly concerned about allegations of illegal lobbying activities on the part of the national commission. In order to help clarify this situation, Mr. President, I ask unanimous consent that a copy of the seventh circuit court of appeals dismissal of a suit against the commission be printed in the RECORD. I also ask unanimous consent that a fact sheet on the State and national IWY conferences be printed.

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

[In the United States Court of Appeals for the Seventh Circuit, Nos. 76–1840, 76–1917]

Harriet Mulqueeny and Patricia Boehnke, Plaintiffs-Appellees, Cross-Appellants, versus National Commission on the Observance of International Women's Year, 1975, Defendant-Appellant, Cross Appellee.

(Appeal from the U.S. District Court for the Southern District of Illinois—No. A–CIV–760039, Robert D. Morgan, Judge.)

ARGUED JANUARY 12, 1977—DECIDED FEBRUARY 24, 1977

Before Sprecher and Tone, Circuit Judges, and East, Senior District Judge.*

Sprecher, *Circuit Judge*. Defendant-appellant, the National Commission on the Observance of International Women's Year, 1975 (hereinafter referred to as the "Commission"), asserts three issues in its appeal from the entrance of a preliminary injunction restraining it from engaging in certain activities: (1) whether plaintiffs lack standing to litigate that the Commission's conduct violates specific Constitutional and statutory provisions; (2) whether the Commission's activities in disseminating information concerning the proposed Equal Rights Amendment constitute "lobbying activities," and thus contravene a specific prohibition embodied in Public Law 94–167 [1] and 94–303; [2] and (3) whether the district court improperly exercised its discretion in entering a preliminary injunction. We hold that plaintiffs lack standing to sue for the relief requested, and therefore we do not consider the issues relevant to the merits of plaintiffs' claim.

I

The Commission was established by Executive Order [3] on January 9, 1975 to promote national observance in the United States of 1975 as International Women's Year. To achieve this end, the Commission was equipped with the broad mandate of focusing the national consciousness "on the need to encourage appropriate and relevant cooperative activity in the field of women's rights and responsibilities." The President allocated specific functions as the "action agenda" of the Commission, including the tasks of promoting "equality between men and women," ensuring "the full integration of women in the total development effort," and encouraging "public and private sectors to set forth objectives to be achieved as part of the program observing International Women's Year." The Commission was expressly authorized to convene meetings when deemed appropriate and to "assemble and disseminate information, issue reports and other publications and conduct such other activities as it may deem appropriate to provide for effective participation of the United States in the domestic observance of International Women's Year."

Pursuant to its executive mandate, the Commission adopted a resolution urging ratification of the Equal Rights Amendment [4] and established an "ERA Committee," cochaired by Alan Alda and Representative

Footnotes at end of article.

Margaret Heckler (R. Mass.), to disseminate information regarding ERA and to encourage discussion of the merits of the proposed amendment. The ERA Committee requested a ruling from the General Accounting Office delineating the parameters of its charge under Executive Order No. 11832. The Comptroller General of the United States issued an opinion letter[5] which affirmed that all proposed activities of the ERA Committee were encompassed within the scope of the authority accorded the Commission.

The Commission, in compliance with its Executive charge, submitted to the President on July 1, 1976 a report detailing its activities which was entitled ". . . To Form a More Perfect Union . . ."[6] The report focuses upon "barriers that keep women from participating in American life as full partners," and discusses a panoply of issues affecting American women, including the role of the homemaker, the image of women projected by the mass media, women's accomplishments and position in the arts and humanities, ERA, employment discrimination, child care services, family planning programs, and enforcement of existing laws prohibiting discrimination.

During the period that the Commission functioned under Executive mandate, the House of Representatives passed a resolution which called for "the launching of new programs and the forming of new attitudes toward the role of women, with impact reaching well beyond 1975, so as to overcome the obstacles still encountered by women in exercising their full human rights and responsibilities in all fields, including education, the arts, and sports, and in enjoying freedom of choice in planning their lives." H.R. Con. Res. 309, 94th Cong., 1st Sess. (1975). This resolution led to the enactment, after vigorus debate, of Pub. L. 94–167,[7] which prolonged the existence of the Commission and directed it to convene a National Women's Conference in order to "assess the progress that has been made toward insuring equality for all women, to set goals for the elimination of all barriers to the full and equal participation of women in all aspects of American life, and to recognize the importance of the contribution of women to the development of friendly relations and cooperation among nations and to the strengthening of world peace." In addition, Congress instructed the Commission to work toward the attainment of specific goals pertinent to the achievement of full equality for women,[8] and expressly provided that the statutory powers derived from the enactment were to be employed in addition to those powers derived from the Executive charge. An amount up to $5 million to effect these provisions was authorized to be appropriated without fiscal year limitation, with the proviso that "[n]o funds authorized hereunder may be used for lobbying activities." Some six months later, sharp, protracted debate in both Houses culminated in appropriation of the $5 million requested by the Commission, again with the proviso that these funds were not to be expended for lobbying activities.[9]

On April 9, 1976, prior to the appropriation of any funds to the Commission, plaintiffs filed a complaint alleging violation of Article V of the Constitution[10] and of the statutory prohibition against use of appropriated moneys for lobbying activities by the Commission's adoption of affirmative resolutions regarding ERA and family planning. Plaintiffs further alleged that members of the Commission were steeped in lobbying activities, appearing at legislative hearings, on media programs and at various luncheons for the purpose of urging ratification of ERA. In addition, plaintiffs alleged that the Commission constituted an "advisory committee" within the intent of the Federal Advisory Committee Act, and violated Section 5(b)(2) of the Act[11] in not providing for a fair balance of viewpoints among members on the ERA and abortion questions.

Plaintiffs specified three alternative requests for relief. First, plaintiffs requested judicial termination of the Commission and an order requiring its members "to refund to the Treasury of the United States all funds spent for ratification of the Equal Rights Amendment, for opposition to a constitutional amendment limiting abortion, and for 'lobbying activities.'" Alternatively, plaintiffs desired to enjoin the Commission from perpetrating the constitutional and statutory violations detailed in the complaint. Finally, plaintiffs sought to compel appointment of persons to the Commission whose viewpoints on the ERA and abortion questions would make the Commission "fairly balanced."[12]

In response to the Commission's Motion for Judgment on the Pleadings, plaintiff Mulqueeny executed an affidavit which identified herself and plaintiff Boehnke as chairpersons of the Illinois branch of "Stop ERA," an organization keenly and actively opposed to the ratification of the proposed Equal Rights Amendment. Plaintiffs claimed to be threatened by immediate, irreparable injury as a consequence of Commission functioning, stating that:

5. For the past four years, Plaintiffs have spent much time, effort, and personal funds in planning, leading, organizing, and carrying out educational work in the State of Illinois to show the harmful effects of the Equal Rights Amendment. Plaintiffs have performed this educational work in various organizations, in schools and colleges, in the press and media, at State of Illinois legislative hearings, at churches, and at many meetings in various parts of Illinois. Plaintiffs have built up a large organization of thousands of citizens who have traveled to the State Capitol at their own expense on many occasions to oppose ratification of the Equal Rights Amendment.

6. Plaintiffs are now in imminent danger of having their four years of time and effort in this educational campaign wiped out, their organization destroyed, the good will credibility they have built impugned, and their five years of legislative victories taken away from them, because of Defendant's illegal actions.

The district court found that plaintiffs had standing to sue for the relief requested, and after hearing testimony, determined that the Commission's programs supporting ERA constituted "lobbying activities."[13] The court enjoined the Commission and its members from participating in the following activities *pendente lite:*

(1) engaging in lobbying activities of any kind, (2) using, directly or indirectly for lobbying activities, any funds appropriated to said defendant to promote the passage or defeat of any legislation, or the adoption, ratification, or defeat of any proposed Constitutional amendment by any legislative body, and (3) using any meetings or women's conferences called or sponsored by it, directly or indirectly, to promote the passage, ratification, or defeat of any such proposed legislation or Constitutional amendment by any legislative body. App. at 145.

Defendant appeals from the issuance of this preliminary injunction.

II

According to their complaint, plaintiffs challenge defendant's activities under the Administrative Procedure Act, alleging illegality in the Commission's putative violation of the Federal Advisory Committee Act, the statutory prohibitions against the use of appropriated funds for "lobbying activities" and Article V of the United States Constitution. For purposes of assessing plaintiffs' standing to maintain this litigation, we deem these allegations to be true.

Despite the conceptual vagaries attendant to the doctrine of standing, as well as Mr. Justice Douglas' admonition that "[g]eneralizations about standing to sue are largely worthless as such,"[14] it is settled that "the gist of the question of standing" involves an inquiry into whether the litigant has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions". *Baker v. Carr*, 369 U.S. 186, 204 (1962). A litigant who asserts that he is "aggrieved by agency action" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 702, must at the outset demonstrate, as an irreducible minimum, that he has sustained "injury in fact,"[15] *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150 (1970),[16] and that the grant of judicial relief requested will ameliorate the complaint of harm. *Simon v. Eastern Kentucky Welfare Rights Organization*, 96 S. Ct. 1917 (1976); *Warth v. Seldin*, 422 U.S. 490 (1975); *Linda R.S. v. Richard D.*, 410 U.S. 673 (1973). Plaintiffs' complaint fails to comport with either requirement.

Sierra Club v. Morton, 405 U.S. 727 (1972), is instructive in the determination of whether plaintiffs allege a legally cognizable injury. In that case, the Sierra Club, a membership corporation holding "a special interest in the conservation and sound maintenance of the national parks, game refuges, and forests of the country," *id.* at 726, sought declaratory and injunctive relief in order to restrain federal officials from approving a proposed plan for development of the Mineral King Valley. In assessing the standing of the Sierra Club to pursue its claim, the Court concurred in the proposition that a litigant may assert values other than economic in order to fulfill the requirement that "injury in fact" be alleged, but cautioned that "broadening the categories of injury that may be alleged in support of standing is a different matter from abandoning the requirement that the party seeking review must himself have suffered an injury." *Id.* at 738. Despite the Sierra Club's long "commitment to the cause of protecting our Nation's natural heritage from man's depredations," *id.* at 739, the Court concluded that the Sierra Club lacked standing because involvement with an issue, whether on the part of an organization or an individual, without more, is insufficient to satisfy the constitutional essential of "injury in fact." *Id.* at 739–40

The "injury in fact" alleged by plaintiffs Mulqueeny and Boehnke is threatened loss of the benefits of legislative victories concerning a pressing current issue, gains reaped at the price of the expenditure of time, energy and funds on the part of plaintiffs. Manifestly, this imminent "injury" must be interpreted in actuality as a potential that the efforts employed by plaintiffs toward their goal of defeating legislation concerning ratification of the Equal Rights Amendment might ultimately prove fruitless, should the position they advocate not prevail. Certainly plaintiffs' endeavors on behalf of their cause bespeak their interest in the Commission's functioning, in the sense that defendant's plans and proposals are antagonistic to plaintiffs' theories regarding women's rights. However, the thrust of recent Supreme Court decisions underscores the principle that "mere interest" in the resolution of an issue, no matter how compelling, no matter how vigorously and vocally expressed, is of itself inadequate as a substitute for the Article III requirement that a litigant demonstrate per-

sonal, concrete injury. *Sierra Club, supra; United States v. Students Challenging Regulatory Agency Procedures* (SCRAP), 412 U.S. 669 (1973). *Cf. Laird v. Tatum*, 408 U.S. 1 (1972); *Roe v. Wade*, 410 U.S. 113, 127–29 (1973).

SCRAP, supra, relied upon by plaintiffs, illuminates proper application of the principle delineated in *Sierra Club*. Plaintiffs in that case challenged a surcharge on virtually all railroad freight rates authorized by the Interstate Commerce Commission, asserting that adoption of the proposed rate structure would discourage the use of recyclable materials, and thereby adversely affect the environment. Plaintiffs alleged specific injury in that their actual use and enjoyment of natural resources and recreation areas would be directly impaired. The Court determined this allegation a sufficient injury for standing purposes, distinguishing *Sierra Club* as involving "a vehicle for the vindication of value interests of concerned bystanders," *SCRAP, supra*, at 687, rather than concrete and perceptible injury. The *SCRAP* plaintiffs alleged a threat of actual harm to their environmental and esthetic interests, as opposed to the abstract concern regarding environmental protection issues voiced by the Sierra Club. *See also Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208 (1974).

Any energy, funds or time disbursed by plaintiffs is concomitant to their keen concern regarding the fate of legislation seeking the ratification of ERA. Any alleged loss incurred by plaintiffs therefore constitutes an abstract injury, not judicially cognizable in the assessment of plaintiffs' standing.

Moreover, assuming *arguendo* that plaintiffs' allegations of harm establish injury in fact," plaintiffs lack standing to invoke the jurisdiction of the federal court in that only through reliance upon the most speculative inferences is a relationship between defendant's conduct and plaintiffs' claimed harm apparent. It is wholly conjectural whether the exercise of remedial powers possessed by the federal court, as desired by plaintiffs, would result in the maintenance of the status quo in the Illinois legislature's posture on the issue of ratifying the Equal Rights Amendment. It is highly plausible that the Commission's proposed course of conduct would have no impact on a legislative determination to disfavor ratification of the proposed amendment; it is equally plausible that, were the injunctive relief requested by plaintiffs granted, the legislature would nevertheless elect to ratify the ERA. Plaintiffs cannot establish that the harm they assert is fairly attributable to the Commission's functioning, or that the grant of injunctive relief will remedy the alleged injury. Thus, plaintiffs' reliance on merely the remote possibility, unsubstantiated by allegations of fact, that their situation might [be] better had [defendant] acted otherwise, and might improve were the court to afford relief," *Warth, supra*, at 507, is insufficient to assure that plaintiffs would realize a benefit from judicial intervention. *Eastern Kentucky Welfare Rights Organization, supra; Linda R.S., supra.*

The fact that denying these plaintiffs standing to litigate the legality of the Commission's activities because plaintiffs cannot establish a cognizable injury which is a consequence of defendant's conduct, precludes other individuals from mounting an effective challenge is of no moment. Standing to sue does not affix itself to a litigant who does not possess it merely because no other individual is willing or able to vindicate a claim. Rather, the Supreme Court has aptly declared that:

Lack of standing within the narrow confines of Art. III jurisdiction does not impair the right to assert his views in the political forum or at the polls. Slow, cumbersome, and unresponsive though the traditional electoral process may be thought at times, our system provides for changing members of the political branches when dissatisfied citizens convince a sufficient number of their fellow electors that elected representatives are delinquent in performing duties committed to them.

United States v. Richardson, 418 U.S. 166, 179 (1974). Protection against the harm asserted accrues to plaintiffs through the political, not the judicial process. *Schlesinger, supra*, at 227.

In view of this resolution of the standing issue, it is unnecessary to consider the remaining issues. Accordingly, the judgment of the district court is vacated, and this case is remanded to the district court with directions to dismiss for lack of standing.

VACATED AND REMANDED.

A true Copy:
Teste:

_____ _____.

Clerk of the United States Court of Appeals for the Seventh Circuit

FOOTNOTES

*Honorable William G. East, United States Senior District Judge for the District of Oregon, is sitting by designation.

[1] 89 Stat. 1003 (approved December 23, 1975). The pertinent part of the statute is Section 9, which provides:

There are authorized to be appropriated without fiscal year limitation, such sums, but not to exceed $5,000,000, as may be necessary to carry out the provisions of this Act. Such sums shall remain available for obligation until expended. No funds authorized hereunder may be used for lobbying activities.

[2] This appropriation statute provides, in pertinent part:

For necessary expenses of the National Commission on the observance of International Women's Year, 1975, as authorized by Public Law 94–167, $5,000,000, to remain available until expended: Provided, that none of the funds appropriated under this paragraph shall be used for lobbying activities.

[3] Executive Order No. 11832, 40 Fed. Reg. 2415 (1975). The Order specified that membership of the Commission would consist of up to 35 private citizens, appointed by the President, and two members of each House of Congress, appointed by the President of the Senate and the Speaker of the House of Representatives. Commission members were to serve without compensation, but would be entitled to travel expenses as authorized by 5 U.S.C. § 5703 (1970).

The Commission was ordered to conclude its tasks by the end of 1975. On November 25, 1975, Executive Order No. 11889, 40 Reg. 54765, was issued sustaining the life of the Commission through June 30, 1976, and directing it to submit a final report of its activities to the President within 30 days of its termination.

[4] The Commission also adopted the recommendations of a subcommittee which supported decisions of the Supreme Court regarding abortion issues and urged that family planning services be made available to women unable to take advantage of private facilities.

[5] No. B–182398 (July 31, 1975). The ruling stated:

The Executive Order confers wide discretion upon the Commission as to how it should *inter alia*, actively promote equality between men and women. The Commission in the exercise of that discretion has resolved to favor ratification of the ERA. To effectuate the Commission's resolution, the ERA Subcommittee intends to educate interested parties as to the impact of the amendments on sexual inequality in the United States and consult with the experts on how to best communicate the facts about ERA. In our view, the Subcommittee's planned activities are within the scope of the Executive Order, both in letter and spirit App. at 30.

[6] This report was received in evidence during the proceedings in the district court, and is part of the record on appeal.

[7] This legislation was passed by the House on December 10, 1975, the Senate on December 11, 1975, and approved by the President on December 23, 1975.

[8] Pub. L. No. 94–167 delineates the Commission's goals and powers as follows:

COMPOSITION AND GOALS OF THE CONFERENCE

SEC. 3. (a) The Conference shall be composed of—

(1) representatives of local, State, regional, and national institutions, agenceis, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and

(2) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

(b) The Conference shall—

(1) recognize the contributions of women to the development of our country;

(2) assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) assess the role of women in economic, social, cultural, and political development;

(4) assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) establish a timetable for the achievement of the objectives set forth in such recommendations; and

(7) establish a committee of the Conference which will take steps to provide for the convening of a second National Women's Conference. The second Conference will assess the progress made in achieving the objectives set forth in paragraphs (5) and (6) of this subsection, and will evaluate the steps taken to improve the status of American women.

(c) All meetings of the Conference and of State or regional meetings held in preparation for the Conference shall be open to the public.

POWERS OF COMMISSION

SEC. 4. The Commission shall—

(1) designate a coordinating committee in each State which shall organize and conduct a State or regional meeting in preparation for the Conference;

(2) prepare and make available background materials relating to women's rights and related matters for the use of representatives to the State and regional meetings, and to the Conference;

(3) establish procedures to provide financial assistance for representatives to the Conference who are unable to pay their own expenses;

(4) establish such regulations as are necessary to carry out the provisions of this Act;

(5) designate such additional representatives to the Conference as may be necessary and appropriate to fulfill the goals set forth in section 3(b) of this Act;

(6) grant technical and financial assistance by grant, contract, or otherwise to facilitate the organization and conduct of State and regional meetings in preparation for the Conference;

(7) establish such advisory and technical committees as the Commission consider nec-

essary to assist and advise the Conference; and

(8) publish and distribute the report required under this Act.

[9] Acute concern that any funds appropriated to the Commission would be misused for improper purposes surfaced during the hearings in both Houses. Representative Miller offered to substitute for the ban on use of appropriate funds for lobbying activities the following proviso:

That none of the funds appropriated under this paragraph shall be used for the purpose of directly or indirectly influencing the passage or defeat of any piece of legislation before any legislative body including the ratification of any Constitutional Amendment. This amendment was ultimately rejected by both Houses in favor of the less restrictive "lobbying activities" language.

Moreover, during the course of the debate an opponent of the appropriation read into the Congressional Record the entire complaint filed by plaintiffs in this lawsuit. *See* 122 Cong. Rec. S6918–6919 (daily ed. May 10, 1976).

[10] Article V provides in pertinent part:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. . . .

[11] Pub. L. No. 92–463 (Oct. 6, 1972). Section 5 of the Act provides, in part:

* * * * *

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain, appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment.

[12] An amended complaint, filed subsequent to the Congressional appropriation of funds to the Commission, reiterated these allegations and additionally sought a temporary injunction "ordering the Defendant Commission to refrain from spending any of the $5,000,000 appropriated . . . until Defendant . . . and all subcommittees and subgroups . . . are in compliance with the Federal Advisory Committee Act."

[13] The district court did not consider the purported violations of Article V of the Constitution and the Federal Advisory Committee Act. Plaintiffs appeal from the district court's failure to rule up on the applicability of the Federal Advisory Committee Act.

[14] *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 151 (1970).

[15] The requirement of alleging an "injury in fact" is obviated in situations where Congress has enacted a specific statute authorizing invocation of the judicial process. *See, e.g., Tafficante v. Metropolitan Life Ins. Co.*, 409 U.S. 205 (1972); *Hardin v. Kentucky Utilities Co.*, 390 U.S. 1 (1968); *Scripps-Howard Radio, Inc. v. F.C.C.*, 316 U.S. 4 (1962). However, the legislative history of neither the Federal Advisory Committee Act nor of the provisions of Public Laws 94–167 and 94–303 prohibiting expenditure of appropriated moneys for "lobbying activities" manifests an intent, either express or implied, to create a right of enforcement in private citizens.

[16] *See also Barlow v. Collins*, 397 U.S. 159 (1970); *Arnold Tours, Inc. v. Camp*, 400 U.S. 45 (1970).

NATIONAL AND STATE IWY CONFERENCES

1. What is the origin of the various state International Women's Year conferences occurring across the nation?

In December 1975 the Congress enatced P.L. 94–167 which authorized the convening of a national conference on American women to "assess the progress that has been made toward ensuring equality for all women, to set goals for the elimination of all barriers to the full and equal participation of women in all aspects of American life." The national conference is to be preceded by state conferences in the 50 states and in the territories. The cornerstone of the state conference is the adoption of recommendations and the election of delegates to the national conference.

2. How were these various conferences coordinated?

Under P.L. 94–167, the National Commission on the Observation of International Women's Year was given the authority to convene both the national and the various state conferences. This Commission was originally established by Executive Order 11832 under the Ford Administration. Congress extended the life of the Commission until the completion of the national women's conference to be held in Houston, Texas on November 18 to 21. The National Commission is mandated by P.L. 94–167 to go out of existence in March of 1978.

3. Who are the members of the National IWY Commission?

President Carter selected the 42 members of the IWY Commission from a broad spectrum of outstanding Americans from diverse walks of life including homemakers, students, nurses, secretaries, rural women, household workers, teachers, artists, civic leaders, union leaders, and church workers. The Commission also included four Members of Congress. All members serve without compensation.

4. How are these state conferences funded?

Pursuant to P.L. 94–167, Congress appropriated $5 million for the National IWY Commission in the Second Supplemental Appropriations bill for FY 1976.

5. How were the state conferences organized?

Under the mandate of P.L. 94–167, the National IWY Commission appointed a coordinating committee in each state to organize the state conference. The state coordinating committee was charged with selecting speakers, establishing workshops, and nominating delegates to the national convention in Houston. All activities of the state coordinating committees were conducted pursuant to detailed regulations published in the Federal Register by the National Commission.

6. What procedures were used to select the state coordinating committees?

Beginning in July 1976, the National Commission undertook a massive effort to seek out nominees for membership on state coordinating committees. The Commission sought nominations from well over 1000 national, and state organizations concerned with the status of women as well as from individuals. Hundreds of names were submitted to the staff of the Commission for consideration. Constant efforts were made by the staff to assure that nominees reflected a broad representation in age, ethnicity, race and political ideology. There was a conscious attempt to designate people with a range of views on some of the more controversial issues. No candidate was nominated based upon her view on abortion or the Equal Rights Amendment. Final selection was made by the members of the National Commission.

7. Have these conferences been dominated by pro-ERA and pro abortion women?

State conferences across the country have been open to women with diverse views on a range of topics including abortion and the Equal Rights Amendment. Many state conferences elected women as delegates to the national convention in Houston who ran on an anti-ERA or anti-abortion slate. States which elected such slates included: Indiana, Utah, Missouri, Mississippi and Oklahoma.

8. Have these conferences been used to lobby for the Equal Rights Amendment?

Under the mandate of both PL 94–167 and the Second Supplemental Appropriations Act for FY 1976, none of the funds used to convene the IWY conferences could be used to lobby on behalf of the Equal Rights Amendment. An investigation of the activities of the National IWY Commission relating to the ERA by the General Accounting Office (January 17, 1977) concluded that the Commission had not acted in violation of this ban. Several state conferences did conduct workshops on the ERA; however, viewpoints on both sides of this issue were sought out, and registered participants had the opportunity to vote for or against any recommendations which emerged.

SENATE SHOULD CONSIDER THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it now has been more than 28 years since the General Assembly of the United Nations unanimously adopted the International Convention on the Prevention and Punishment of the Crime of Genocide. During these years, there has been much debate in this country about the merits of the treaty. In newspapers throughout the Nation, among citizens, and among the Members of this very body, much discussion has been generated. People are clearly interested and concerned.

Mr. President, I mention these facts for one reason. It seems to me that any issue so important to the American people deserves to be considered by the Senate. Yet each time the Foreign Relations Committee has recommended ratification of the treaty, this body has refused to act. Think about that. The Foreign Relations Committee has considered the Genocide Convention four times, and each time it has urged the Senate to give its advice and consent. The Senate, however, has never even voted on the question.

And I should mention that this treaty does not deal with some obscure question of international law or some esoteric point of international affairs. This treaty outlaws genocide. It declares that any act

committed with the intent to destroy a national, ethnical, or religious group is a crime against international law.

Now I admit that there have been a number of arguments against this treaty. And they certainly deserve to be debated. I can find no reason, however, why the Senate, at some point, should not consider the convention on its merits. After almost three decades, I do not believe it is an outrageous expectation that the Senate vote on the question. The American people deserve no less.

JFTY MITZVAH CORPS

Mr. WILLIAMS. Mr. President, last week I had the privilege of meeting an extraordinary group of young people who, at their own expense, are spending 6 weeks this summer helping the poor, infirm, and elderly of New Brunswick, N.J. I am speaking of the Jersey Federation of Temple Youth Urban Mitzvah Corps.

Every year since 1970 when the corps was organized by Rabbi Richard Sternberger, director of the Mid-Atlantic region of the Union of American Hebrew Congregations, 20 Jewish teenagers from mostly suburban homes in New Jersey have performed a variety of service jobs on a rotating basis in the city of New Brunswick. These jobs have included delivering meals-on-wheels, participating in "outreach" visits to shut-ins, working at the Happy Day Camp for retarded persons, and staffing a nutrition center, a senior citizens resource center and a federally funded day care center.

This summer the students also helped to open two inner-city playgrounds in New Brunswick which would not have opened were it not for the efforts of these high school youths.

These students each year raise all the money themselves for their program, including living expenses and travel expenses to and from their jobs, by seeking support from different local groups and businessmen.

Last week the students traveled to Washington with the corps' current directors, Jonathan Miller, a second-year rabbinical student at the Hebrew Union College-Jewish Institute of Religion, and his wife, Judv. Both Jon and Judy were original participants in the Mitzvah Corps. Their group held discussions with me and members of my staff on ways to improve Federal services to the elderly and retarded citizens of our country. Their insights, often coming from direct experience, were most valuable in pinpointing areas where help is urgently needed.

I strongly commend their program and each one of its participants. It is a sure sign that our Nation's young people are not the apathetic and uncaring generation often described by the media. These students are participating in a program which I am sure will have great meaning for them personally and at the same time provide a valuable contribution to the people of the city of New Brunswick.

All involved in this worthy program deserve the highest praise, and I wish the Mitzvah Corps continued success for years to come.

ROBERT MAYNARD HUTCHINS

Mr. CRANSTON. Mr. President, on May 14, 1977, the Nation suffered the passing of Robert Maynard Hutchins—scholar, humanist and visionary in the noblest sense of that often maligned word. As the founder and director of the Center for the Study of Democratic Institutions in Santa Barbara, Bob Hutchins took a concept and molded it into concrete reality, creating a continued dialog between scholars with a penetrating interest in public affairs, and public men with an eye for the "practical philosophy" inherent in contemporary issues.

The center's current president, Harry S. Ashmore, a distinguished journalist and scholar in his own right, has done a commendable job in seeing to it that the center and its activities remain true to the goals and ideals of its founder. At the memorial service for Robert Maynard Hutchins, Harry Ashmore chose for his readings an eloquent selection from his published works. Bob Hutchins' own words, I feel, can say much more than I for the greatness of his humanity and vision.

I ask unanimous consent that these quotations be printed in the RECORD.

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

ROBERT M. HUTCHINS
JANUARY 17, 1899—MAY 14, 1977

Some twenty-five years ago I proposed to the University of Chicago that it change its motto . . . I may claim it for the Center for the Study of Democratic Institutions. It was a line from Walt Whitman:

"Solitary, singing in the West, I strike up for a new world."

READINGS, MEMORIAL SERVICE FOR ROBERT M. HUTCHINS, CENTER FOR THE STUDY OF DEMOCRATIC INSTITUTIONS, SANTA BARBARA, MAY 28, 1977

Our text for today is taken, with apologies to all those who would have chosen differently, from the published works of Robert Maynard Hutchins.

Of his antecedents, he said:

My father's family was descended from a long line of Connecticut doctors and ministers; my mother's from a long line of sea captains from Maine. My childhood was nourished by the stories of their independence . . . and I began to think at an early date that the ideal American was the perpendicular man. These ancestors of mine were all stubborn and some of them were vain. Their notion of success did not seem to involve material goods so much as it did holding on to their own convictions in the face of external pressure.—Freedom, Education and the Fund, 1956.

Thornton Wilder used to say that he and I were brought up in the "late foam-rubber period of American Protestantism." And the worst of that, he said, was that we didn't have the courage to think what he called "window-breaking thoughts." Thornton thought I had lived in two of the wrong neighborhoods: the neighborhood of late foam-rubber Protestantism and, as a semi-professional money raiser, in the neighborhood of the very rich. "The rich," Thornton said, "need to be lapped in soothing words." What was required was window-breaking thoughts. The enemy was philistinism, parochialism, narrow specialization. The object of education—indeed of the whole of life—was the expansion of imagination.—Remarks, Memorial Service for Thornton Wilder, January 18, 1976.

To his students, early in his career at the University of Chicago:

I am not worried about your economic future. I am worried about your morals. My experience and observation lead me to warn you that the greatest, the most insidious, . . . the most paralyzing danger you will face is the danger of corruption. Time will corrupt you. Your friends, your wives, or husbands, your business or professional associates will corrupt you; your social, political, and financial ambitions will corrupt you. The worst thing about life is that it is demoralizing.

The pressure toward uniformity is especially intense now. More effective methods of applying it are constantly appearing. The development of the art of advertising and the new devices now at its disposal make more moving than ever the demand that every American citizen must look, act, and think like his neighbor, and must be afflicted with the same number of gadgets. . . . Almost everybody now is afraid. This is . . . reflected in the decay of the national reason. Almost the last question you can ask about any proposal nowadays is whether it is wise, just, or reasonable. The question is how much pressure is there behind it or how strong are the vested interests against it . . .

Believe me, you are closer to the truth now than you ever will be again. Do not let "practical" men tell you that you should surrender your ideals because they are impractical. Do not be reconciled to dishonesty, indecency, and brutality because gentlemanly ways have been discovered of being dishonest, indecent, and brutal. . . . Courage, temperance, liberality, honor, justice, wisdom, reason, and understanding, these are still the virtues—Address to the Graduating Class, University of Chicago, 1935.

Bidding the students at Chicago farewell:

Perhaps the greatest difference between your time in college and my own is the popularization in the intervening years of the works of Freud . . . I must say that he has had . . . an unfortunate effect upon your conversation and upon the standards by which you judge yourselves and others. A graduate student in psychology told me last year that in her opinion 99% of the people of this country were abnormal. In addition to providing an interesting definition of normality, this suggested to me that the ordinary difficulties of growing up and being human, from which the race has suffered for a million years, had taken on a kind of clinical character . . . On the principle laid down by Gilbert and Sullivan that when everybody is somebody, nobody is anybody; if everybody is abnormal, we don't need to worry about anybody.—Address to students, University of Chicago, 1951.

To the proprietors and managers of the mass media:

The Press must know that its faults and errors have ceased to be private vagaries and have become public dangers.—A Free and Responsible Press, 1947.

The greatest aggregation of educational foundations is the press itself . . . Indeed, I notice that in spite of the frightful lies you have printed about me I still believe everything you print about other people . . . Must we fall back on the process of education through educational institutions, hoping that in the long run we may produce a generation that will demand better things of

you? This process will be tedious and difficult, because of the power of the press itself over the minds and habits of those whom the educational institutions produce.—Address to the American Society of Newspaper Editors, 1930.

The horrid prospect that television opens before us, with nobody speaking and nobody reading, suggests that a bleak and torpid epoch may lie ahead, which, if it lasts long enough, will gradually, according to the principles of evolution, produce a population indistinguishable from the lower forms of plant life. Astronomers at the University of Chicago have detected something that looks like moss growing on Mars. I am convinced that Mars was once inhabited by rational human beings like ourselves, who had the misfortune, some thousands of years ago, to invent television.—Address to students, University of Chicago, 1951.

Of his life work, he said:

Upon education our country must pin its hopes of true progress, which involves scientific and technological advance, but under the direction of reason; of true prosperity, which includes external goods but does not overlook those of the soul; and of true liberty, which can exist only in society, and in a society rationally ordered.—The Higher Learning in America, 1936.

We can learn from science and technology how to build a bridge. We may, perhaps, learn from social science what some of the social, political, and economic consequences of building the bridge will be. But whether those consequences are good or bad is not a question in either physical or social science.

And so it is of all the most important questions of human existence. What is the good life? What is a good society? What is the nature and destiny of man? . . . These questions do not yield to scientific inquiry. Nor do they become nonsense, as the logical positivists would have us believe, because they are not scientific. . . . Unfortunately, the question whether there is knowledge other than scientific knowledge is one that science can never answer. It is a philosophical question.—The Conflict of Education, 1953.

Of his personal faith, he said:

I was the classic example of the young man brought up to good habits who could not understand why he or anybody else should have them until his own experience forced him to try to find out . . . A lifetime of experience and reflection has supplied me with reasons for defending the faith in which I was brought up.

That faith, I say again, was faith in the independent mind. Its educational consequences were belief in free inquiry and discussion. Its political consequences were belief in democracy, but only in a democracy in which the minority, even a minority of one, could continue to differ and be heard. Those who desire to conform, but are prohibited or hindered from doing so by intolerance and prejudice must be aided; the non-conformist conscience must not be stifled. Hence my interest in the Fund for the Republic—Freedom, Education and the Fund, 1956.

The Civilization of the Dialogue is the only civilization worth having and the only civilization in which the world can unite. It is, therefore, the only civilization we can hope for, because the world must unite or be blown to bits. The Civilization of the Dialogue requires communication. It requires a common language and a common stock of ideas. It assumes that every man has reason and every man can use it. It preserves to every man his independent judgment, and, since it does so, it deprives any man or group of men of the privilege of forcing their judgment upon any other . . . The Civilization of the Dialogue is the negation of force.—Bedell Lecture, Kenyon College, 1948.

Finally, I think he would say to you what he said on another testimonial occasion:

The life of man, so far as it is of value at all, is at every point a struggle of wisdom against folly, of generosity against selfishness, of objectivity against prejudice, of civilization against barbarism.

I salute you because you are leaders in that struggle. I am grateful to you because you have been willing to be my friends.—Remarks, Testimonial Dinner, New York, 1965.

DR. JAMES R. SCHLESINGER TO BE FIRST SECRETARY OF ENERGY

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources held a hearing today on the proposed nomination of Dr. James R. Schlesinger to be the Nation's first Secretary of Energy.

I am advised that the President will submit Dr. Schlesinger's nomination to the Senate after he signs the Department of Energy Organization Act tomorrow morning.

Mr. President, I ask unanimous consent that Dr. Schlesinger's biography and his statement to the committee today be printed in the RECORD. I also ask unanimous consent that Dr. Schlesinger's sworn financial statement and a letter from the Counsel to the President discussing his stockholdings be printed in the RECORD.

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

JAMES R. SCHLESINGER

James R. Schlesinger is Assistant to the President with primary responsibility for energy matters. He is working to establish a comprehensive national energy policy and a Cabinet Department of Energy to carry out this policy. He was selected by then President-elect Jimmy Carter as his chief energy advisor on December 23, 1976, at which time he was a Visiting Scholar at Johns Hopkins University.

In March 1969 Mr. Schlesinger began his Government service as Assistant Director of the Bureau of Budget (later the Office of Management and Budget), and served for a period as Acting Director. He left BOB in August 1971 to become Chairman of the Atomic Energy Commission, a post he held until February 1973 when he was named Director of Central Intelligence. He served in that position until July 1973 when he was appointed Secretary of Defense. He remained at the Defense Department until November 1975.

Born in New York City, February 15, 1929, Mr. Schlesinger received A.B., A.M. and Ph. D. degrees in economics from Harvard University in 1950, 1952 and 1956, respectively. From 1955 to 1963 he served as assistant and associate professor of economics at the University of Virginia. Subsequently he was associated with the Rand Corporation as a senior staff member, 1963–67, and director of strategic studies, 1967–69.

Mr. Schlesinger has been an associate editor of the Journal of Finance, 1964–65; a member of the board of associates of the Foreign Policy Research Institute at the University of Pennsylvania, 1962–63; and a Frederick Sheldon Prize Fellow at Harvard, 1950–51. He is the author of The Political Economy of National Security, 1960, and co-author of Issues in Defense Economics, 1967.

Married to the former Rachel Mellinger, Mr. Schlesinger and his wife have eight children and live in Arlington, Virginia.

Mr. Chairman and Members of the Committee: I am pleased to be here this morning for your consideration of my prospective nomination to be Secretary of Energy, and am most grateful to you, Mr. Chairman, for the extraordinary speed with which you have called this hearing.

The President, in transmitting the National Energy Plan to the Congress in April of this year, stated that "In each period of our history, the nation has responded to challenges which have demanded the best in all of us. This is one of those times."

Creation of the nation's first new Cabinet Department since 1966 indicates the seriousness of the challenge we face. Rarely have we faced a more difficult task. Rarely has the need for cooperation between the Congress and the Executive branch been more essential. And rarely has the response of both the Congress and the American people been more heartening.

The Congress has created the Department of Energy in just five months, an amazingly and gratifying short period of time. Both the Senate and the House are acting on major elements of the President's National Energy Plan, many portions of which will be administered by the Department of Energy.

Now, we must begin the job of organizing in government to meet the challenges we face ahead. The President believes that the Congress has given us the tools to undertake that task in creating the Department of Energy. Yet I do not want to underestimate the difficulty of the organizational job ahead in combining the Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission, and a variety of programs and responsibilities from other Cabinet Departments into a coherent, manageable and effective Department of Energy.

This task of organizational integration is currently underway. We have not yet reached many firm conclusions but are moving forward toward those decisions. I hope and intend to consult with the members of this Committee and the Congress over the next few months as these decisions are made to seek your views and your advice.

In the course of creating the Department, the Congress has already given some very definite guidance. We are pleased that we have been given the flexibility to organize sensibly along functional lines, taking into account the need for a new structure that can meet changing conditions and new programmatic responsibilities. And in creating the new Federal Energy Regulatory Commission within the Department, the Congress has recognized the need for continued independence in decision-making in certain key areas relating to natural gas and electricity, and yet has created a cooperative mechanism under which the Secretary and the Federal Energy Regulatory Commission hopefully can arrive mutually at decisions which will aid the integration of national energy policy with other societal goals.

If confirmed, I am determined to ensure that the Department of Energy results in a more cost-effective use of Federal funds. And I am committed to seeking the advice and cooperation of the Congress, the states and localities, and interested individuals and groups of all perspectives.

I look forward with great anticipation to the challenge ahead, and to working with you on the many problems we will face together.

Mr. Chairman, I will be happy to respond to any questions the committee may have

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Interior and Insular Affairs requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

JAMES R. AND RACHEL M. SCHLESINGER

Real Estate:	
Home (assessed value)	$130,000
Less: Mortgage	41,000
Total	89,000
Lot, Fairfax County	20,000
Farm, Springfield, Ohio 20 percent interest at $1500/acre	96,000
Total	205,000
Personal Property	20,000
Pension Plans:	
TIAA-CREF	41,000
Government Retirement	23,000
Total	64,000
Cash	3,000

Stocks:

Listed—5,000 Sea Containers, 1,929 Central Telephone, 1,250 Fred S. James & Co. 2,100 Newhall Land and Farming, 300 Victor Comptometer, 108 Boise Cascade.

Unlisted—400 Responsive Environments, 6,000 Rosegold, 700 Funding.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) Only in normal operation of brokerage account.

3. Are you currently a party to any legal action? As former Director of Central Intelligence I still am involved in a class action by parties charging possible legal violations. This is being handled by the Department of Justice.

4. Have you ever declared bankruptcy? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Schlesinger, James R.

Position to which nominated: Secretary of Energy.

Date of birth: February 15, 1929.

Place of birth: New York.

Marital status: Married.

Full name of spouse: Rachel M. Schlesinger.

Name and ages of children: Cora, 22; Charles, 21; William, 18; Emily, 15; Thomas, 12; Clara, 11; James, Jr., 7.

Education: Harvard University, January 1950–June 1955, A.M., Ph.D.; Harvard College, September 1946–January 1950, A.B.

Honors and awards: Frederick Sheldon Fellowship, 1950; Honorary Degree, Doctor of Laws, Citadel, 1975; Honorary Degree, Doctor of Laws, University of South Carolina, 1976; Honorary Degree, Doctor of Laws, Indiana University of PA, 1976; Honorary Degree, Doctor of Laws, New York University, 1976; Honorary Degree, Doctor of Laws, Ohio State University, 1977; Dwight David Eisenhower Gold Medal, Veterans of Foreign Wars, 1976; Honorary Degree of Humane Letters, Wittenberg College, 1977; Intelligence Community National Intelligence Distinguished Service Medal, 1975; Senate Resolution 303, 94th Congress, 1st Session, November 18, 1975, Citation for Excellence in Office as the Secretary of Defense; Department of Army Distinguished Service Medal; Department of Navy Distinguished Public Service Medal; Department of Air Force Exceptional Civilian Service Medal; Atomic Energy Commission Distinguished Service Medal.

Memberships: None.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

January 1977 to Present: U.S. Government, White House, Assistant to President.

November 1975 to January 1977: Johns Hopkins SAIS, Washington, D.C., visiting scholar, new position.

July 1973 to November 1975: U.S. Government, Washington, D.C., Secretary of Defense, termination.

February 1973 to July 1973: U.S. Government, Washington, D.C., Director, CIA, new position.

August 1971 to February 1973: U.S. Government, Washington, D.C., Commissioner, AEC, new position.

March 1969 to August 1971: U.S. Government, Washington, D.C., Associate Director, OMB, new position.

March 1962 to March 1969: Rand Corp. Santa Monica, Calif., consultant/director, new position.

September 1955 to March 1962: University of Virginia, Charlottesville, Va., assistant professor/Assistant, new position.

July 1957 to December 1957: Naval War College, Newport, R.I., academic consultant, end agreement.

September 1951 to June 1955: Harvard University, Cambridge Mass., teaching fellow or student or unemployed prior to September 1951.

1962 to 1964: Amerad Corp., Charlottesville, Va., VA consultant, end agreement.

February 1962 to February 1962: Foreign Policy Research Inst., University of Pennsylvania, Philadelphia, Pa., associate, end agreement.

1962 to 1967: Board of Governors, Federal Reserve Board, Washington, D.C., consultant, end agreement.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions. See employment record.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. Political Economy of National Security—published in 1960. Countless technical articles plus Fortune (March 1976) and Readers Digest (April 1976).

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Not applicable.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Normal legislation activities of a Federal officer.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Not applicable.

JAMES R. SCHLESINGER

James R. Schlesinger is Assistant to the President with primary responsibility for energy matters. He is working to establish a comprehensive national energy policy and a Cabinet Department of Energy to carry out this policy. He was selected by then President-elect Jimmy Carter as his chief energy advisor on December 23, 1976, at which time he was a Visiting Scholar at Johns Hopkins University.

In March 1969 Mr. Schlesinger began his Goverment service as Assistant Director of the Bureau of Budget (later the Office of Management and Budget), and served for a period as Acting Director. He left BOB in August 1971 to become Chairman of the Atomic Energy Commission, a post he held until February 1973 when he was named Director of Central Intelligence. He served in that position until July 1973 when he was appointed Secretary of Defense. He remained at the Defense Department until November 1975.

Born in New York City, February 15, 1929, Mr. Schlesinger received A.B., A.M. and Ph.D. degrees in economics from Harvard University in 1950, 1952, and 1956, respectively. From 1955 to 1963 he served as assistant and associate professor of economics at the University of Virginia. Subsequently he was associated with the Rand Corporation as a senior staff member, 1963–67, and director of strategic studies, 1967–69.

Mr. Schlesinger has been an associate editor of the Journal of Finance, 1964–65; a member of the board of associates of the For-

eign Policy Research Institute at the University of Pennsylvania, 1962–63; and a Frederick Sheldon Prize Fellow at Harvard, 1950–51. He is the author of the Political Economy of National Security, 1960 and co-author of Issues in Defense Economics 1967.

Married to the former Rachel Mellinger, Mr. Schlesinger and his wife have eight children and live in Arlington, Virginia.

THE WHITE HOUSE,
Washington, August 2, 1977.

Dr. JAMES R. SCHLESINGER,
Secretary-Designate, Department of Energy, Washington, D.C.

DEAR DR. SCHLESINGER: I acknowledge receipt of your response to the Outline of Information Requested of Prospective Nominees. I congratulate you on your notification of the President's intention to nominate you to be Secretary of the Department of Energy. I also acknowledge receipt of your letter of commitment to the President.

It is my understanding that you have fully severed your relationship with Johns Hopkins University and have no further obligation to that institution nor do you have any commitment to return to it following your government service. Similarly, I understand that you have no ongoing obligation or commitment to any of the institutions which paid you fees or honoraria for speaking, writing or participating in seminars during 1976.

You have advised that you own security interests in six different companies which are listed on stock exchanges. I understand that none of these securities are in energy related companies. If you learn that any of these companies engage in energy related activities you should divest yourself of such securities. Moreover, you should disqualify yourself to act on any particular matter, as that phrase is defined in 18 U.S.C. 208(a), which would affect the interest of any of those companies. Should you determine that you need to disqualify yourself more than infrequently as a result of such stock ownership, I recommend that you divest yourself of those securities which are causing that disqualification or establish a blind trust which complies with the standards established under the Carter-Mondale Guidelines on Conflicts of Interest.

You have advised that you own unlisted stocks in three companies. The total value of these stocks is $1,000 or less and their actual value may be zero. However, if Responsive Environments is still a viable enterprise, it would seem to have an interest in the rules, regulations and actions of the Department of Energy. Accordingly, I suggest that you sell or otherwise dispose of this stock if it has any value at all. The elimination of the appearance of a conflict is important.

I understand that the legislation establishing the Department of Energy will require sale of all energy related stocks owned by Executive Level appointees to the Department. In my opinion, such divestiture is appropriate.

I assume that there is no oil or gas drilling, or coal mining, on the farm in Springfield, Ohio in which you hold a 20% interest. Any interest in mining, drilling or exploratory operations, would be inappropriate for the Secretary of the Department of Energy.

It is my understanding that you are not a member of any organization or group which lobbies before Congress, is likely to lobby at the Department of Energy or seeks grants or applications from other federal government agencies or departments. You have advised, however, that you are a member of the Audubon Society which may take an interest in some environmental matters.

Based on our review of the materials you have submitted and assuming you take the actions you have indicated you will take and those that are suggested in this letter, it appears that you will have complied with the Guidelines on Conflicts of Interest.

It has been a pleasure to work with you at the White House. I know that you will fulfill your new responsibilities with great distinction.

Sincerely,

ROBERT J. LIPSHUTZ,
Counsel to the President.

HAZEL R. ROLLINS NOMINATED AS ASSISTANT ADMINISTRATOR OF THE FEDERAL ENERGY ADMINISTRATION

Mr. JACKSON. Mr. President, last Friday the Committee on Energy and Natural Resources held a hearing on the nomination of Hazel R. Rollins to be an Assistant Administrator of the Federal Energy Administration for energy conservation.

I ask unanimous consent that Mrs. Rollins' biography, her statement to the committee and her sworn financial statement be printed in the RECORD.

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

BIOGRAPHICAL STATEMENT

1. Name: Hazel Rollins (nee Reid, Robinson).

2. Address: 717 6th Street, S.W., Washington, D.C. 20024.

3. Date and place of birth: May 17, 1937; Newport News, Virginia.

4. Marital status: Divorced.

5. Names and ages of children: Carl Gilbert Rollins—16.

6. Education: Fisk University, 1955–1959, B.A., June 1959. Rutgers Law School, 1963–1966, LL.B., June 1966.

7. Employment record:

May 1977—Present, Consultant, Federal Energy Administration, Washington, D.C.

June 1976–May 1977, General Counsel, Community Services Administration, Washington, D.C.

July 1974—June 1976, Office Director, Federal Energy Administration, Washington, D.C.

February 1972–June 1974, Office Director, Cost of Living Council, Washington, D.C.

January 1971–August 1971, Attorney (private practice), Orange, New Jersey, and also Assistant County Prosecutor, Essex County Prosecutor's Office, Newark, New Jersey.

May 1969–June 1970, Assistant Administrator, Essex County Legal Services, E. Orange, New Jersey.

July 1968–May 1969, Attorney (private practice), Orange, New Jersey.

April 1968–June 1969, Organize office in Newark for Community Action Legal Workshop, Newark, New Jersey.

September 1967–January 1968, Deputy Attorney General, State of New Jersey, Trenton, New Jersey.

8. Government experience:

Member, City of Orange (N.J.) Board of Education; Deputy Attorney General, State of New Jersey; and Assistant County Prosecutor, Essex County New Jersey.

9. Memberships:

Board of Trustees, Orange YWCA (N.J.)—Member of Board; United Campaign of Essex County (N.J.)—Member; National Bar Association—Member; and United Federal Campaign (Executive Committee—1976).

10. Honors and awards:

Deans List—Fisk University. Senior Honors Program—Fisk University; Cum Laude—Fisk University; Moot Court Competitor—Rutgers University; Outstanding Black Female Attorney—National Bar Association; Director's Distinguished Service Award, Cost of Living Council, 1973 and 1974; and Director's Distinguished Service Award, Community Services Administration, 1976.

11. Published writings:

Series of Government Annual Reports, mandated by legislation, 1972–1976.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $24,208.56.

U.S. Government securities—add schedule, $4,000.00.

Real estate interests, including mortgages—add schedule, $77,000.00.

Residence, $20,000.00.

Civil Service Retirement, $4,000.00.

Total assets, $129,208.56.

LIABILITIES

Real estate mortgages payable—add schedule (Residence only), $46,000.00.

Household and living expenses, $1,000.00.

Total liabilities, $47,000.00.

Net worth, $82,208.56.

Chessie System, Inc., 25 shares.

Singer (Carl), 50 shares.

Western Union (Carl), 20 shares.

Rollins, Inc., 100 shares.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

STATEMENT OF HAZEL R. ROLLINS BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, JULY 29, 1977

Mr. Chairman and members of the committee, it is a privilege to appear before you today. Before I begin my remarks, I would like to thank Deputy Administrator David Bardin for his kind comments on my behalf.

It is an honor to be here as a nominee to join President Carter's administration as the Assistant Administrator for Conservation of FEA at a time when the president has designated conservation as a basic principle of our national energy policy. Energy conservation is the only viable means of maintaining our national well-being in the short term, as we strive to develop alternatives to meet our long-term energy needs and bring new technologies on-line. At the same time, a great deal of effort must be made in the ordering of priorities and in making certain that conservation programs are cost-effective and produce significant cost savings.

Because energy conservation is such a high priority, I believe that emphasis must be placed upon those areas where the greatest benefits will accrue—commerce and industry, government and the home. As an example, the possibilities for achieving substantial energy savings in the industrial sector are great. Important initiatives have already been taken by many corporations and they have begun to pay off in clearly demonstrable terms, not only in energy savings but also in increased production efficiency.

These efforts must be expanded to include the small business community. I intend, therefore, to form a strong partnership with business and industry.

A successful national energy conservation program cannot be achieved without cooperation among all levels of government. The opportunities for partnership between the Federal Government and State and local governments are numerous. We have begun at the State level, and have every indication that local governments are eager to plan for and implement their own energy conservation programs.

Conservation is the one area in the large and increasingly important subject of energy that touches every citizen. Fortunately, the need for conservation is a principle upon which nearly all of us agree. Difficult choices face us as we develop and implement a successful national energy program. If I am confirmed, I look forward to working with you and your constituents to create a conservation program that will insure the continuing economic health of this nation and its citizens and a program that is consistent with the realities of our national energy supply situation.

I again thank you for the opportunity to appear before you today. I will be pleased to answer any questions you may have.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Interior and Insular Affairs requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Rollins, Hazel, nee Reid, Robinson.

Position to which nominated: Assistant Administrator.

Date of nomination: July 14, 1977.

Date of birth: May 17, 1937.

Place of birth: Newport News, Virginia.

Marital status: Divorced.

Name and ages of children: Carl Gilbert Rollins—16.

Education, institution, dates attended, degrees received, and dates of degrees.

Fisk University, 1955–1959, B.A., June 1959.

Rutgers Law School, 1963–1966, LL.B., June 1966.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Deans List—Fisk University; Senior Honors Program—Fisk University; Cum Laude—Fisk University; Moot Court Competitor—Rutgers University; Outstanding Black Female Attorney—National Bar Association; Director's Distinguished Service Award, Cost of Living Council, 1973 and 1974; and Director's Distinguished Service Award, Community Services Administration, 1976.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates.

Board of Trustees, Orange YWCA (N.J.), Member of Board, 1964.

United Campaign of Essex County (N.J.), Member, 1963–64.

National Bar Association, Member, Current.

United Federal Campaign, Executive Committee, 1976.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

May 1977–Present, Consultant, Federal Energy Administration, Washington, D.C.

June 1976–May 1977, General Counsel, Community Services Administration, Washington, D.C.

July 1974–June 1976, Office Director, Federal Energy Administration, Washington, D.C.

February 1972–June 1974, Office Director, Cost of Living Council, Washington, D.C.

January 1971–August 1971, Attorney (private practice), Orange, New Jersey; also

January 1971–August 1971, Assistant County Prosecutor, Essex County Prosecutor's Office, Newark, New Jersey.

May 1969–June 1970, Assistant Administrator, Essex County Legal Services, E. Orange, New Jersey.

July 1968–May 1969, Private Law Practice, Orange, New Jersey.

April 1968–June 1968, Organize Office in Newark for Community Action Legal Workshop, Newark, New Jersey.

September 1967–January 1968, Deputy Attorney General, State of New Jersey, Trenton, New Jersey.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Member, City of Orange (N.J.) Board of Education (appointed position).

Deputy Attorney General, State of New Jersey.

Assistant County Prosecutor, Essex County, New Jersey.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Series of Government Annual Reports, mandated by legislation, 1972–1976.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Not applicable—Federal employee prior to nomination.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Western Union—Stock; Singer, Inc.—Stock; Chessy System—Stock; and Rollins, Inc. (Atlanta, Ga.)—Stock.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I will divest myself of any stocks I now hold personally or in my name for my son Carl under the Uniform Gift to Minors Act in order to avoid any potential conflict of interest.

QUALIFICATIONS

The administrative and legal positions I have held during my professional career qualify me to undertake responsibilities for developing and implementing energy conservation programs to reduce the rate of growth in energy demand consistent with national economic and social goals.

Since coming to the Federal Government in February of 1972, I have held progressively more responsible assignments. Initially, I was hired as a lawyer/advisor with a range of experience in various legal skills developed as a general practitioner, Assistant County Prosecutor, and Deputy State Attorney General.

In my positions as Deputy Director and Director of the Self-Administered Industries Division of the Cost of Living Council, I instituted an information system for collecting and analyzing all data and contract information relative to major industry wage adjustments, including the petroleum, steel, coal, cement, and utility industries. In order to effectively represent the Federal Government in negotiations with industry and union officials and their attorneys for resolution of cases, I conducted in-depth studies of those industries.

As Director, Public Sector Division, Cost of Living Council, and Deputy to the Counselor to the Director, Cost of Living Council, I monitored State and local government wage increases when they were not consistent with Economic Stabilization Law, directed appropriate administrative action, and personally negotiated wage reductions with State and local public officials and employee representatives which required a knowledge of State and local governments as well as economic issues.

While serving as Director of the Office of Consumer Affairs/Special Impact, Federal Energy Administration, from July 1974 to June 1976, I evaluated national energy policy and its impact on the public. In this position my office conducted the first national study on weatherizing the homes of low income citizens. As a result of that study my office developed and recommended the first national weatherization program which was proposed in January 1975. In addition, the

office developed technical papers on rate reform, the first microeconomic impact analysis of increased energy prices on individuals. Through coordination with other FEA program offices, innovative rate design concepts were incorporated into FEA utility demonstration projects in the Office of Conservation.

As General Counsel to the Community Services Administration, I served as the legal counsel to the Director. I was responsible for supervision of the legal staff and the activities of the Office of Inspection and participated in the formulation and revision of policies and procedures governing the activities of CSA and other Federal human resource agencies, many of which focused on energy conservation.

My legal skills, in combination with my management abilities, energy expertise and experience in dealing with representatives of all sectors of the economy, provide the appropriate balance of skills and experience necessary to develop and manage a comprehensive energy conservation program.

As an administrator my programs have always had a very high level of productivity. I have supervised lawyers, economists, engineers, administrators, computer scientists, secretaries, and clerical employees, both men and women, of various age groups. I believe I have uniformly had their admiration and respect.

THE RECOMBINANT DNA ACT—S. 1217

Mr MOYNIHAN. Mr. President, yesterday a substitute amendment to S. 1217, the Recombinant DNA Act, was introduced by my distinguished colleague, the junior Senator from Wisconsin. As I believe this matter to be one of serious import, with possible far-reaching consequences, I have joined Senator NELSON as cosponsor of his amendment.

Federal regulation of research into recombinant DNA is, indeed, a most complex and controversial issue. The research itself is being conducted at the very frontiers of science, where our knowledge is incomplete, but rapidly growing. While there are legitimate concerns regarding the safety of this research, we must take great care so as to not allow unjustified fears to cloud our judgment and cause us to set precedents which we may, at a later date, have reason to regret. This substitute amendment would, I believe, establish the necessary regulatory authority to control recombinant DNA research.

I find this proposal to be in all respects superior to S. 1217. We must be very careful when creating such regulatory power that we examine its impact on private research institutions. In this case, the institutions that are affected are our universities and research laboratories, which have operated, and should continue to operate, in the tradition of free inquiry into all research matters. S. 1217 would establish unnecessarily stringent controls on the research activities of the scientific community.

The amendment which we introduced yesterday provides the necessary regulation without forcing unnecessary intrusion into what is, legitimately, the academic domain.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

On July 7, 1977, Congress received transmittal No. 77-46, which proposed the sale of seven E-3A—AWACS—to the Government of Iran. After extensive hearings on the proposed sale, the Foreign Relations Committee determined that there was insufficient time to give the sale the serious consideration it deserved. Consequently, the Foreign Relations Committee requested that the President withdraw temporarily the proposed sale to Iran.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter from the Defense Security Assistance Agency indicating that the President has directed transmittal No. 77-46 to be withdrawn.

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

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 2, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The President has directed that Transmittal Number 77-46, which proposed the sale of seven E-3A (AWACS) to the Government of Iran, be withdrawn.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

NOMINATIONS TO FEDERAL POWER COMMISSION

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources earlier this week held hearings on the nomination of Charles B. Curtis and Georgiana Sheldon to be members of the Federal Power Commission.

I ask unanimous consent that biographies of the nominees, their statements to the committee and their sworn financial statements be printed in the RECORD.

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

PERSONAL RÉSUMÉ OF CHARLES BRENT CURTIS

PERSONAL INFORMATION

Born. April 27, 1940.

Married: Rochelle E. Bates; one child, Brent Arthur.

Address: Van Ness, Curtis, Feldman & Sutcliffe, 1220 19th Street, N.W., Suite 500, Washington, D.C. 20036. 9500 Ewing Drive, Bethesda, Maryland 20034.

Telephone: 202/331-9400 (office), 301/530-5563 (home).

PROFESSIONAL EXPERIENCE

January 1977 to present: Van Ness, Curtis, Feldman & Sutcliffe.

November 1976 to January 1977: Carter-Mondale Transition Team—Federal Energy Administration Liaison Officer.

June 1971 to November 1976: Counsel, Committee on Interstate and Foreign Commerce U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act. Motor Vehicle Insurance and Cost Savings Act. Emergency Petroleum Allocation Act of 1973. Energy Supply and Environmental Coordination Act of 1974. Securities Acts Amendments fo 1975. Energy Policy and Conservation Act of 1975. Energy Conservation and Production Act of 1976.

May 1967 to June 1971: Securities and Exchange Commission, Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections, supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967: Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

EDUCATION

Legal: Boston University Law School, 1962-1965, LL.B., *cum laude*, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome scholarship awards. Graduated among top ten in class of 178.

Undergraduate: University of Massachusetts, Amherst, Massachusetts, 1958-1962, A.B., B.S. Elected to Senior Men's Honor Society. Permanent Class Vice President.

ADMITTED TO PRACTICE

Commonwealth of Massachusetts—1965.

District of Columbia—1976.

Professional and business references furnished upon request.

MAY 17, 1977.

STATEMENT OF CHARLES B. CURTIS, NOMINATED TO BE A MEMBER OF THE FEDERAL POWER COMMISSION, BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, AUGUST 2, 1977

Mr. Chairman and Members of the Committee, my name is Charles B. Curtis, an attorney engaged in the private practice of law. I appear today as the President's nominee to be a member of the Federal Power Commission. I am pleased to have this opportunity to discuss my qualifications for this most important position and to respond to your questions.

Herman Kahn once observed that "everything is complex." But surely energy policy is a final exam in complexity. This is particularly true with respect to the discharge of the responsibilities which the Congress has vested in the Federal Power Commission. I can assure this Committee that I approach the task with a full sense of humility.

For virtually my entire professional life, I have been privileged to hold various positions of responsibility for the Federal Government. The perspectives gained from this experience should prove useful in the performance of the responsibilities which the President has asked me to assume. But I am fully cognizant that much remains to be learned.

My credentials for this position are grounded in the positions I have held over the past twelve years in government service. Others should speak to the manner in which I have discharged my assigned responsibilities and provide the Committee with a measure of my professional competence. Let me, then, only attempt to describe the nature of the various positions which I have held and briefly relate this experience to the work of the Federal Power Commission.

I entered government service as a staff attorney for the Comptroller of the Currency of the U.S. Department of the Treasury. As you know, the Comptroller's office has responsibility for regulating the national bank system. During my stay with the Comptroller, I was schooled in administrative law and economic regulation. Beginning in 1967, I accepted a position with the Securities and Exchange Commission and continued to serve that agency in various positions of ascending responsibility for a period of four years. In that endeavor I significantly added to my background in the problems and complexities which attend the administration of regulatory programs. Most importantly, I gained an understanding of the dynamics of working with a collegial body charged with the administration of national economic and regulatory policies.

Throughout my tenure with the Securities and Exchange Commission, I was impressed by the commitment of that agency to professional excellence. That commitment lies at the root of the high reputation which the Securities and Exchange Commission enjoys; for, although many may disagree strenuously with the policies of the Commission, few would challenge the dedication and skill of its members and the staff. It will be one of my first priorities to attempt to instill this same commitment to excellence in the Federal Power Commission and to help that agency repair its reputation which has been tarnished in recent years.

Let me add parenthetically that I know there are many at the Federal Power Commission who are dedicated, highly competent, public servants. I am confident that they are anxious to join in a common effort to improve the agency's resources and the public's perception of its commitment to the effective discharge of its responsibilities.

My technical credentials in the energy field are largely derived from my experience in the Congressional arena. For five years I served as counsel to the House Interstate and Foreign Commerce Committee and, in that capacity, had principal staff responsibility for a number of major initiatives in energy policy. Specifically, these have included: the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, the Energy Policy and Conservation Act of 1975, and the Energy Conservation and Production Act of 1976. In the course of Congressional deliberations on these and other legislative matters, I have obtained a broad background in energy policy decision-making and an appreciation for the complexity and difficulties which confront government in this most important area. Moreover, in the conduct of the oversight responsibilities of that Committee which has jurisdiction over the Federal Power Commission and the majority of other independent regulatory agencies, I have gained an understanding of the expectancies of the Congress and the legal requirements pertaining to the independence of judgment which independent regulatory Commissions must exercise. I know of the full conviction and purpose of the Congress in sheltering these regulatory functions from partisan influence. And, I pledge to fully honor that commitment in the office for which I have been nominated.

Mr. Chairman, I am greatly honored by the trust that the President has evidenced by his nomination of me to this position of great responsibility. I hope that the members of this Committee will find that that trust is well placed and that, if confirmed, I will continue to justify your confidence.

FINANCIAL STATEMENT AS OF JULY 11, 1977

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. (Figures are rounded to the nearest dollar.)

ASSETS

Cash on hand and in banks [1]	$21,967
U.S. Government securities—add schedule	—
Listed securities—add schedule	2,860
Unlisted securities—add schedule	—
Accounts and notes receivable:	
Due from relatives and friends	—
Due from others	—
Real estate interests, including mortgages—add schedule	87,000
Personal property [2]	12,261
Life insurance—cash value [3]	450
Other assets—itemize:	
(a) Employee contribution to Government retirement plan, receivable on demand (estimated)	19,000
(b) Distribution of capital account from law partnership [4]	—
(c) See footnote 5 below	—
Total assets*	143,538

LIABILITIES

Notes payable to banks—secured	—
Notes payable to banks—unsecured [5]	—
Notes payable to relatives	—
Notes payable to others	—
Accounts payable [6]	1,100
Unpaid income tax	—
Other unpaid tax and interest	—
Real estate mortgages payable—add schedule [7]	25,000
Chattel mortgages and other liens payable	—
Total liabilities	26,100
Net worth*	117,438

FOOTNOTES

*Excluding distribution of capital account of law partnership.

[1] Schedule A attached.

[2] Schedule D attached.

[3] Policy number BOS3-11-258-573; Prudential Insurance Company of America—cash surrender value of $260 plus undetermined accumulated dividends estimated to be $190.

[4] Distribution from capital account from law partnership cannot be valued at this time. If confirmed by the Senate, I will terminate my partnership and all interest in the firm of Van Ness, Curtis, Feldman & Sutcliffe; the books at that time will be closed and a full accounting will be rendered by a certified public accountant. A valuation of the capital distribution would be made available to the Committee. Capital distribution is expected to range between $15,000 and $25,000.

[5] Charles B. Curtis is jointly and severally liable on a note in the amount of $8,605.40 plus interest, payable to the National Bank of Washington, due September 20, 1977, which is offset by a note receivable held by the law partnership due and payable on the same date in an equivalent amount.

[6] Outstanding bills payable for current and ordinary household and living expenses.

[7] See Schedule C.

SCHEDULE A—*Cash on hand and in banks*

Checking: Suburban Trust Co., Hyattsville, Md., acct. 43-1309-8-3101	$4,657
Checking: National Bank of Washington, P.O. Box 2844, Washington, D.C., acct. 3-831-33-7-01	101
Savings: Wright Patman Congressional Employees Federal Credit Union Longworth House Office Building, Washington, D.C. 20515, acct. 7810-04	17,209
Total	21,967

SCHEDULE B—*Listed securities*

Securities: 52 shares GE common at $55 fair market value	$2,860

SCHEDULE C—*Real estate interests*

Residence 9500 Ewing Drive, Bethesda, Md.:	
Fair market value*	$82,000
Mortgage indebtedness: Interstate Federal Savings Association**	25,000
Equity	57,000
Second trust: Property located at Hollins Drive, Bethesda, Md. $5,000 at 9 percent due January 1978	5,000
Fair market value of security*	94,000
First mortgage	35,000
Equity security second mortgage**	60,000
Total	62,000

* Estimated values.

** Rounded to the nearest $1,000.

SCHEDULE D—*Personal property*

PERSONAL PROPERTY

Automobiles:	
1971 Audi: Fair market value*	$1,500
1975 Opel:	
Fair market value*	3,200
Indebtedness	2,439
(Wright Patman Congressional Employees Credit Union)*	761
Miscellaneous (Unspecified furniture, clothing, etc.)**	10,000
Total	12,261

*Estimated value.

**Current estimated value (replacement cost estimated to be $25,000).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

(a) Distribution from capital account of law partnership of the firm of Van Ness, Curtis, Feldman & Sutcliffe. The distribution cannot be valued at this time. If confirmed by the Senate, I will terminate my partnership and all interest in the firm, the books will be closed at that time, and a full accounting will be rendered by an independent certified public accountant. A valuation of the capital distribution will be made available to the Committee. The distribution will occur within 45 days of confirmation; it is expected to range between $15,000 and $25,000.

(b) No other arrangements or future benefits.

2. Are any assets pledged? (Add schedule.) Yes; residence (See Schedule C), automobile (See Schedule D).

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Curtis, Charles Brent.

Position to which nominated: Federal Power Commission.

Date of nomination: July 29, 1977.

Date of birth: April 27, 1940.

Place of birth: Upper Darby, Pa.

Marital status: Married.

Full name of spouse: Rochelle Elaine Bates Curtis.

Names and ages of children: Brent Arthur Bates Curtis, age 8.

Education:

Belmont High School, September 1955 to June 1958.

University of Massachusetts, September 9, 1958 to June 1962, BS and BA.

Boston University School of Law, September 1962 to June 1965, bachelor of laws, cum laude.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Boston University Law School, LL.B., cum laude, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome scholarship awards.

University of Massachusetts, Amherst, Massachusetts. Elected to Senior Men's Honor Society. Permanent Class Vice President. Veterans of Foreign Wars and American Legion Scholarship awards.

Letters of commendation: Comptroller of the Currency, U.S. Treasury; Chairman, Securities and Exchange Commission.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, Office held (if any), and Dates:

D.C. Bar Association, none, November 1976 to present.

Federal Bar Association, Member, Exec. Council Securities Law Section 1975–1977, 1975 to present.

American Bar Association, None, 1965 to present.

American Judicature Assn., None, 1975 to 1976.

St. Luke's House, Inc., Member, Board of Directors, 1975 to present.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

January 1977 to Present: Van Ness, Curtis, Feldman & Sutcliffe, 1220 19th St. NW., Washington, D.C. 20036, Partner legal.

November 1976 to January 1977: Carter-Mondale Transition Team, C/O Federal Energy Administration, 12th & Penn. NW., Washington, D.C., FEA Liaison.

May 1971 to November 1976: United States Congress, U.S. House of Representatives, Committee on Interstate & Foreign Commerce, 2125 Rayburn HOB, Washington, D.C. Chief Counsel.

May 1967 to May 1971: Securities and Exchange Commission, 500 N. Capitol, Washington, D.C., Attorney Advisor.

July 1965 to May 1967: Department of Treasury, Washington, D.C., Staff Attorney.

June 1964 to September 1964: Attorney General, Commonwealth of Massachusetts, State House, Boston, Mass., Law Clerk.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions. See attached sheet titled "Government Experience".

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. I have not had direct and sole authorship responsibility for any published articles or reports. However, I have written numerous committee reports in connection with my responsibilities as counsel to U.S. House Committee on Interstate and Foreign Commerce related to energy, securities and consumer safety and other matters. Also, as assistant note editor of the Boston University Law School Law Review, I participated in the writing of several articles for that law review.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.—See note respecting distribution of capital account of law partnership.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. See attached sheet titled "Potential Conflicts of Interest: Responses to items 3, 4 and 5."

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Same as for 3.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Same as for 3.

GOVERNMENT EXPERIENCE

November 1976 to January 1977:

Carter-Mondale Transition Team—Federal Energy Administration Liaison Officer.

June 1971 to November 1976:

Counsel, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act; Motor Vehicle Insurance and Cost Savings Act; Emergency Petroleum Allocation Act of 1973; Energy Supply and Environmental Coordination Act of 1974; Securities Acts Amendments of 1975; Energy Policy and Conservation Act of 1975; Energy Conservation and Production Act of 1976.

May 1967 to June 1971:

Securities and Exchange Commission; Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967:

Staff Attorney (later Supervising Staff Attorney); Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

June 1964 to September 1964:

Attorney General, Commonwealth of Massachusetts; Law Clerk, Criminal Division.

For virtually my entire professional experience, I have been privileged to hold various positions of responsibility for the federal government. I have served within an executive department as a staff attorney for the Comptroller of the Currency of the U.S. Department of Treasury. For four years I was employed by an independent regulatory commission in positions of ascending responsibility. My experience with the Securities and Exchange Commission, well recog-

nized as perhaps the most competent of federal agencies, has been instructive in understanding the dynamics of working with a collegial body charged with the administration of economic policies and regulatory programs. I have been trained in administrative law and have had supervisory experience, although not of the dimension which will attend my prospective position on the Federal Power Commission. That endeavor coupled with my service as counsel to the Interstate and Foreign Commerce Committee of the House of Representatives (which has jurisdictional responsibility for the oversight of many of the independent regulatory agencies) has imbued me with an understanding of the expectancies of the Congress and the legal requirements pertaining to the independence of judgment called for in the generic acts establishing independent regulatory commissions. I know of the full conviction and purpose of the Congress in sheltering these regulatory functions from partisan influence. I pledge to fully honor that commitment in the office for which I have been nominated.

In the past five years the Congress has considered and acted upon several major initiatives in the energy field. Specifically, these have included: The Emergency Petroleum Allocation Act of 1973, The Energy Supply and Environmental Coordination Act of 1974, The Energy Policy and Conservation Act of 1975, and The Energy Conservation and Production Act of 1976. In the course of congressional deliberations on these and other legislative matters I have obtained a broad background in energy policy decision-making and an appreciation for the complexity and difficulties which confront government in this most important area. The perspectives gained should prove both useful and humbling in the performance of the task which the President has asked me to undertake.

POTENTIAL CONFLICTS OF INTEREST: RESPONSES TO ITEMS 3, 4, AND 5

Much of my professional experience in the last ten years has involved government service. From July 1965 to June 1967 I served on the legal staff of the Comptroller of the Currency. In June 1967 I began a four-year stint in various legal capacities with the Securities and Exchange Commission. For the period May 1971 through November 1976, I was engaged as Counsel to the Committee on Interstate and Foreign Commerce, U.S. House of Representatives. From November 1976 through January 20, 1977, I served as Federal Energy Administration Liaison Officer on the Carter-Mondale Transition Team. I do not believe that my activities in these positions in any way constitute or could result in a possible conflict of interest in the position for which I am being considered. Moreover, I have not engaged in any business relationship, dealing or financial transaction during that period (i.e., July 1965 through January 20, 1977) which, in my opinion, could in any way constitute or result in a possible conflict of interest in the position for which I am being considered.

Beginning on January 21, 1977, and continuing to the present date, I have been engaged in the practice of law as a member of the firm of Van Ness, Curtis, Feldman & Stutcliffe. In this capacity, I have established certain client relationships which pose potential conflicts. My responses to items (3), (4) and (5) attempt to describe those client relationships and the manner in which I would propose to resolve any potential conflict of interest. For convenience, my response will consider the questions en bloc.

First, a preliminary comment. None of the client relationships established by the firm of Van Ness, Curtis, Feldman & Sutcliffe have involved or presently contemplate appearances before the Federal Power Commission with respect to matters committed to the jurisdiction of that Commission. Nonetheless, I would propose to recuse myself, while a member of the Commission, from the consideration of any matter which may come before the Commission which specifically and directly affects the interest of any existing or past client of the firm of Van Ness, Curtis, Feldman & Sutcliffe for a period of one year. I would propose to permanently recuse myself from the consideration of any matter which specifically and directly affects a client for which I had principal responsibility while engaged in the practice of law and with respect to which I furnished advice or represented the client before any administrative agency or the Congress.

The following describes these client relationships, the specific activities engaged in on behalf of the client, and the potential conflict of interest, if any, which may attend my discharge of the responsibilities to be vested in me as a member of the Federal Power Commission:

1. American Institute for Certified Public Accountants:

a. Description: General consultative relationship with respect to administrative agency actions and legislation affecting the accounting profession including its role and responsibilities with respect to municipal disclosures, illegal or questionable payments by corporate officials, promulgation of accounting standards and principles, relationship with government regulatory bodies and other related matters. Representation includes appearances before the Congress and administrative agencies.

b. Specific Activities: I have made appearances on behalf of the client before the Congress being duly registered under the Lobby Registration Act in support of modifications to legislation dealing with the role and responsibilities of accountants with respect to questionable and illegal corporate payments and with respect to providers of health services under the Medicaid and Medicare programs. I have also made appearances before the Congress in connection with the need for and content of Federal regulation of the accounting profession.

c. Potential Conflict of Interest: None perceived.

2. Pacific Gas and Electric Company:

a. Description: General consultative relationship with particular interest in the selection of a system for the transportation of Alaska natural gas to serve California and western states. Relationship involves appearances on behalf of the client before administrative agencies only.

b. Specific Activities: I have made appearances before administrative agencies in support of a Presidential decision under the Alaska Natural Gas Transportation Act to authorize the construction of a pipeline system for the transportation of Alaska natural gas which includes direct pipeline delivery facilities for the distribution of a portion of such gas to California and western state markets. I have made no appearances on behalf of this client before the Congress nor have I appeared on behalf of this client before any administrative agency with respect to any other matter.

c. Potential Conflict of Interest: A question of conflict of interest could be raised with respect to the selection of a system for the transportation of Alaska natural gas to serve California and western state markets, if this decision is not made by the President under the Alaska Natural Gas Act but left to the Federal Power Commission. Accordingly, if this occurs, I would propose to recuse myself permanently from consideration of any such matter.

3. Central and South West Corporation:

a. Description: Specific consultative relationship with respect to the interconnection of electric utilities in the State of Texas in interstate commerce. Relationship involves appearances on behalf of the client in support of legislation proposed by the President in the National Energy Act to provide a means of fostering such interconnection.

b. Specific Activities: I have made appearances before the Congress being duly registered under the Lobby Registration Act in support of provisions of the President's bill designed to foster interconnection of electric utilities. The client's interest is specifically confined to the problem which exists in the State of Texas. I have made no other appearances on behalf of the client with respect to any other matter nor have I appeared before any administrative agency on behalf of this client.

c. Potential Conflict of Interest: I believe there exists a potential conflict of interest with respect to Federal Power Commission consideration of any proposed interconnection of electric utilities in the State of Texas with affiliates of the Central and South West system operating in Oklahoma and Arkansas. Accordingly, I would propose to permanently recuse myself from consideration of this issue or any other matter which specifically involves the interconnection of affiliated entities of Central and South West Corporation.

4. Manufacturing Chemists Association:

a. Description: General consultative relationship with respect to national energy policy. Relationship does not involve or contemplate appearances before the Congress or administrative agencies.

b. Specific Activities: I have acted in an advisory and consultative capacity only. I have made no appearances before the Congress nor before any administrative agency.

c. Potential Conflict of Interest: None perceived.

5. American Bakers Association:

a. Description: General consultative relationship concerning national energy policy. Relationship did, but does not any longer, contemplate appearances before the Congress on behalf of the Association (terminated June 17). The consultative relationship continues at this date. The relationship does not involve appearances before administrative agencies.

b. Specific Activities: I have made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation which proposes to provide emergency allocations and curtailment protection for essential agricultural uses of natural gas. As noted above, I terminated on June 17, the lobby registration on behalf of this client. I continue to serve the client in a consultative capacity. I have made no appearances on behalf of this client before administrative agencies.

c. Potential Conflict of Interest: Some potential exists. I would propose to permanently recuse myself from consideration of any matter which contemplates the creation of a separate priority for the allocation of natural gas to, or the protection from curtailment of, the baking industry or other food processors as a separate class.

6. Wheelabrator-Frye Inc.: General consultative relationship with respect to matters concerning solvent refined coal process technology, resource from waste recovery systems and synthetic gas from coal. Relationship involves appearances before the Congress and administrative agencies.

b. Specific Activities: I have made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation to provide Federal fi-

nancial assistance for the demonstration of solvent refined coal process technology. I have also made appearances concerning the possible modification of proposed amendments to the Clean Air Act to clarify the application of new source performance standards to sources which avail themselves of solvent refined coal process products. I have had discussions with members of administrative agencies concerning these matters but have made no formal appearances before these agencies.

c. Potential Conflict of Interest: None perceived.

7. Dupont-National Distillers (joint venture):

a. Description: Specific consultative relationship concerning proposed construction order to be issued with respect to syngas facility located in Texas. Relationship contemplated appearance before administrative agency. The matter is now closed and the relationship will be termintaed.

b. Specific Activities: I have made appearances before the Federal Energy Administration on behalf of this client concerning a notice of intent to issue a construction order under the Energy Supply and Environmental Coordination Act with respect to a proposed syngas facility located in Texas.

c. Potential Conflict of Interest: None perceived.

8. The Business Roundtable:

a. Description: General consultative relationship only concerning national energy policy. No appearances before the Congress or administrative agencies have been undertaken or are contemplated.

b. Specific Activities: None engaged in beyond a general advisory and consultative relationship.

c. Potential Conflict of Interest: None perceived.

With respect to the following clients, other members of the firm of Van Ness, Curtis, Feldman & Sutcliffe have principal responsibility. In no case have I engaged in any activity on behalf of such clients for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. I have rendered advice to the Arctic Slope Regional Corporation concerning their interest in connection with legislation proposed under Section 17(d)(2) of the Alaska Native Claims Settlement Act, and to the Northern Tier Pipeline Company concerning their interest in gaining approval of a proposed pipeline for the distribution of surplus Alaska crude oil from the West Coast to the Northern Tier and Midwestern States. In this latter regard, I have also rendered advice to Northern Tier Pipeline Company concerning the prospect of obtaining legislation to expedite the permitting and construction process of such a pipeline system. Also, I have rendered advice to Kidder-Peabody and Company concerning the financing of home insulation and conservation programs for residences.

Existing client relationships for which other members of the firm have principal client responsibility:

1. Northern Tier Pipeline Company.
2. North Slope Borough.
3. Allstate Insurance.
4. Consumers Action Now.
5. Wolf Trap Foundation.
6. Association of Local Transport Airlines.
7. National Park Concessions, Inc.
8. Republic Geothermal, Inc.
9. Arctic Slope Regional Corporation.
10. Kidder-Peabody & Co.
11. Committee for Consumers No-Fault.
12. Texaco, Inc. (Consultative only respecting coal lands located in alluvial valleys, refinery competition and coal conversion.)
13. Seatrain-Alaska Consolidated Shipping, Inc.
14. Western Crude Oil, Inc.
15. Montana Power Company.
16. National Committee for Automobile Crash Protection.

I do not believe that any of the above-listed client relationships pose a true conflict of interest inasmuch as the clients either have no business before the Federal Power Commission or, if they do, it is with respect to issues beyond our existing client relationships. However, in an excess of caution, I would propose to recuse myself for a period of one year with respect to any matter before the Federal Power Commission which directly and specifically affected the interest of any of these clients, should the issue present itself.

Past Client Relationships

The law firm of Van Ness, Curtis, Feldman & Sutcliffe had a brief client relationship with Texas Eastern Transmission Company concerning their interest in an application for waiver under the Jones Act to permit the transportation of LPG in a foreign flag vessel from a port in Texas to facilities in New Jersey during last winter's emergency. This matter does not involve the jurisdiction of the Federal Power Commission and I believe no potential conflict of interest exists although Texas Eastern Transmission Company is regulated by the Commission with respect to other aspects of its business.

GEORGIANA SHELDON

SYNOPSIS

Twenty-five years of successful achievement in academic, business, and intergovernmental affairs, federal personnel management; legislative as well as executive competence.

EMPLOYMENT HISTORY

March 1976 to June 15, 1977.—Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976.

As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees.

Acting Chairman, February 1, 1977, to June 15, 1977. Line management authority for 7,000 employees of the Civil Service Commission. Appeared before House Appropriations Committee in defense of seven billion dollar budget.

1975–1976.—Director, Office of Foreign Disaster Relief and Deputy Coordinator for International Disaster Assistance, Agency for International Development, Washington, D.C. 20423.

Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. Government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long-range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

1969–1975.—Deputy Director, Defense Civil Preparedness Agency, The Pentagon, Washington, D.C. 20301.

Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nationwide defense civil preparedness programs. Liaison with Congress, Department of Defense, and other Federal/state agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personal management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

1969.—Special Recruiter, The Peace Corps, Washington, D.C.

Temporary assignment—Talent search for the Agency.

1963–1969.—Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C. 20515.

Served as executive and personal assistant to Members of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arose; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

1961–1962.—Executive Secretary, Foundation for Specialized Group Housing, Washington, D.C.

Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

1961.—Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C.

Responsible for securing public relations and advertising accounts for newly established agency. Account executive.

1956–1961.—Assistant to Special Assistant to Chairman, Republican National Committee, Washington, D.C. 20006.

Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interviewed all job applicants and party officials. Traveled extensively. Handled press and public relations for Republican Chairman in Virginia.

1954–1956.—Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida.

Supervision of all applications for admission, records on all students in residence, general administration of the curriculum and academic problems in instructional area. Liaison between University and press, radio and television.

1953–1954.—Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida.

Responsible for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

GENERAL INFORMATION

Education: Avon High School, Avon, New York, Keuka College, Keuka Park, New York—B.A. 1945, Cornell University—M.S. 1949, Federal Executive Institute, Charlottesville, Virginia—1972.

Recognitions: Fellowship to Cornell University, Alumni Award for Professionalism, Keuka College, Consultant, Personnel Publications, The Brookings Institution; Who's Who in America; Who's Who in Government; Who's Who of American Women; Department of Defense Distinguished Civilian Service Medal by Secretary Laird—1973; Bronze Palm added to the Department of Defense Distinguished Civilian Service Medal by Secretary Schlesinger—1976.

Boards and Committees: Board of Trustees, Keuka College; Board of Trustees, Federal Woman's Award, Inc.; Representative on Employee-Management Relations Commission of the Foreign Service Board; Member, President's Commission on Personnel Interchange; Member, Federal Committee on Ecology; Co-Chairperson, Department of Defense International Women's Year Committee—1975.

Memberships

Professional: International Personnel Management Association; Executive Women in Government.

Personal: The Capitol Hill Club.

Personal Data: Excellent Health; Single, free to travel.

References

Hon. Melvin R. Laird, Vice President, Readers Digest, 5703 Kirkwood Drive, Washington, D.C. 20016.

Hon. I. Lee Potter, Chairman of the Board, Jelleff's, 3120 North Wakefield Street, Arlington, VA 22207.

Hon. Hadlai Hull (former Assistant Secretary of the Army for Financial Management), 5001 Rockwood Parkway, N.W., Washington, D.C. 20016.

Hon. John E. Davis (former Governor of North Dakota), 404 Apollo Avenue, Bismarck, North Dakota 58501.

STATEMENT OF GEORGIANA H. SHELDON, NOMINEE FOR FEDERAL POWER COMMISSION, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, TUESDAY, AUGUST 2, 1977

Mr. Chairman, I appreciate the opportunity to appear before you today to answer any questions you may have in connection with my nomination as a Member of the Federal Power Commission.

I am honored to have been selected by President Carter to serve as a member of this important Commission. I do believe my many years of governmental experience, a truly unbiased attitude and a fresh viewpoint are assets which will assist me in carrying out my responsibilities and solving the energy problems with which I will be confronted.

I have supplied the Committee with the material you requested and I am ready to answer any questions you may have.

Thank you, Mr. Chairman.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Interior and Insular Affairs requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand in banks	$2,000.00
U.S. Government securities—add schedule	3,000.00
Addenda A, listed securities—add schedule	[1] 2,752.00
Personal property	50,000.00
Teachers retirement (beneficiary)	211.56
Civil service retirement	24,696.00
Total assets	82,659.56

Liabilities

Net worth	$82,659.56

[1] Addenda A—Listed securities: 44 shares A.T. & T., $2,752.00.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.—None.

2. Are any assets pledged?—None.

3. Are you currently a party to any legal action?—None.

4. Have you ever declared bankruptcy?—No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Sheldon, Georgiana H.

Position to which nominated: Member Federal Power Commission.

Date of nomination: July 29, 1977.

Date of birth: February 12, 1923.

Place of birth: Lawrenceville, Pennsylvania.

Marital status: Single.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees

Avon High School, 1937–1941, Academic, June 1941.

Keuka College, 1941–1945, B.A. Degree, June 1945.

Cornell University, 1948–1949, M.S. Degree, June 1949.

Federal Executive Institute, 1972, No Degree.

HONORS AND AWARDS

List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

Fellowship to Cornell University.

Alumni Award for Professionalism, Keuka College.

Who's Who in America, Government and American Women.

Department of Defense Distinguished Civilian Service Medal (Sec. Laird)—1973.

Bronze Palm added to above award by Sec. Schlesinger—1976.

EMPLOYMENT HISTORY

1976 to present

Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415. Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976.

As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees.

Acting Chairman, February 1, 1977 to present. Line management authority for 7,000 employees of the Civil Service Commission.

Director, Office of Foreign Disaster Relief and Deputy Coordinator for International Disaster Assistance, Agency for International Development Washington, D.C. 20423.

Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

Deputy Director, Defense Civil Preparedness Agency, the Pentagon, Washington, D.C. 20301. Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nation wide defense civil preparedness programs. Liaison with Congress, Department of Defense and other Federal/State agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personnel management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside of government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

Special Recruiter, the Peace Corps, Washington, D.C.—Temporary assignment—Talent search for the Agency.

Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C.—Served as executive and personal assistant to Member of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arose; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

Executive Secretary, Foundation for Specialized Group Housing, Washington, D.C.—Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C.—Responsible for securing public relations and advertising accounts for newly established agency. Account executive.

Assistant to Special Assistant to Chairman, Republic National Committee, Washington, D.C. 20006.—Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interview all job applicants and party officials. Traveled extensively. Handled press and public relations for Republican Chairman in Virginia.

Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida.—Supervision of all applicants for admission, records on all students in residence, general administration of the Liaison between University and press, radio and television.

Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida.—Responsibile for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

MEMBERSHIP

List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization and dates

International Personal Mgt. Ass'n., present.

Executive Women in Gov't., present.

Board of Trustees, Keuka College, 1976–present.

GOVERNMENT EXPERIENCE

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or position:

Board of Trustees, Federal Women's Award, Inc.

Representative on Employee-Management Relations, Commission of the Foreign Service Board.

Member, President's Commission on Personnel Interchange.

Member, Federal Committee on Ecology.

Co-Chairperson, Department of Defense, International Women's Year Committee—1975.

PUBLISHED WRITINGS

List the titles, publishers and dates of any books, articles, or reports you have written:

Nothing other than materials required in various positions.

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.—Not presently employed.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.—No.

3. Has anybody made you a commitment to a job after you leave government?—No.

4. Do you expect to serve the full term for which you have been appointed?—Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.—None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.—None.

QUALIFICATIONS

The Federal Power Commission is an independent, regulatory agency which was established to protect the consumer and the environment.

In my opinion during the past twenty five years my experience in the academic world, business and Government has given me the background needed to bring objectivity and open-mindedness to this position in Federal Government in both the legislative and executive branch has given me a broad perspective of the Government process and the internal workings of the bureaucracy. This experience included policy making as well as administrative functions.

As Vice Chairman of the Civil Service Commission, I was the second ranking policy official in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal employees.

As Acting Charman of the Commission, I had line management authority for 7,000 employees of the Civil Service Commission.

As Deputy Director of the Defense Civil Preparedness Agency it was necessary to be able to effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside Government; analyze complex problems, and make difficult decisions.

While more direct experience could be advantageous, I believe my experience does not limit me to one point of view. I am confident I will be able to bring openness, candor and objectivity to the Federal Power Commission.

Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.—None.

List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.—Only that which was necessitated by my previous Federal positions.

SENATOR KENNEDY ON THE POCKET VETO ISSUE

Mr. ABOUREZK. Mr. President, the current issue of the Virginia Law Review contains a significant article by the distinguished senior Senator from Massachusetts (Mr. KENNEDY) on the pocket veto clause of the Constitution. In recent years, Senator KENNEDY has taken the lead in Congress in defending the constitutional prerogatives of the Senate and the House of Representatives against the efforts of the Nixon and Ford administrations to expand the President's pocket veto power. In two separate court actions involving Senator KENNEDY as plaintiff, his viewpoint prevailed, and a series of pocket vetoes were declared unconstitutional, thus vindicating the rights of Congress. As a result of those two court decisions—one in the U.S. Court of Appeals for the District of Columbia circuit, and the other in the U.S. District Court for the District of Columbia—the applicable constitutional law now is that a pocket veto is valid only during the final adjournment at the end of a Congress, and not during adjournment within a session or between sessions.

Mr. President, I believe that Senator KENNEDY has performed a valuable service for the Congress on the Constitution in securing this interpretation of the pocket veto clause. I commend his perseverance, and I ask unanimous consent that his article be printed in the RECORD.

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

CONGRESS, THE PRESIDENT, AND THE POCKET VETO

(By EDWARD M. KENNEDY)

Article I, section 7 of the Constitution contemplates four possible actions by the President when a bill passed by Congress is presented to him: (1) He may approve the bill by signing it within ten days; (2) He may disapprove, or veto, the bill by returning it to Congress with his objections within the ten-day period, in which case Congress will have the opportunity to override the veto; (3) He may allow the bill to become a law by failing to sign it within the ten-day period; or (4) He may disapprove the bill by declining to sign it when the adjournment of Congress prevents him from returning the bill with his objections.[1] In this final situation, the President is said to pocket veto the bill.[2]

The power of the President to pocket veto a bill after *sine die* adjournment[3] at the end of a Congress has survived with little controversy.[4] However, the exercise of this power when the mandated ten-day period expires during a *sine die* adjournment *between* sessions of a Congress (intersession adjournment) or during an adjournment *within* a session (intrasession adjournment) is relatively uncharted constitutional territory.

In 1929 and 1938, the Supreme Court considered the validity of an intersession pocket veto and intrasession pocket veto, respectively. In *The Pocket Veto Case*,[5] the Court sustained a pocket veto during the five month *sine die* intersession adjournment of the Sixty-Ninth Congress. On the other hand, in *Wright* v. *United States*,[6] the Court declared that a pocket veto would be unconstitutional if exercised when one house of Congress had adjourned for three days. These two cases represent the only interpretations of the pocket veto clause by the Supreme Court. Moreover, they resolved the availability of the pocket veto only with respect to extreme situations. The larger question, when—if at all—the President may pocket veto legislation during brief intersession and intrasession adjournments of both houses, remained unanswered until recently.

Presidents have exercised the pocket veto power during intersession adjournments on numerous occasions since the ratification of the Constitution.[7] But the large majority of these occasions have been adjournments of at least three months.[8] As *The Pocket Veto*

Footnotes at end of article.

Case involved an adjournment of five months, the Supreme Court's rationale in sustaining the validity of the pocket veto in that situation is not necessarily applicable to the much briefer intersession adjournments that are now the practice of Congress.[9]

Unlike the intersession pocket veto, the intrasession pocket veto is a relatively new phenomenon. Born of historical accident in 1867,[10] the practice took on significant dimensions only in recent years, with eighty-five percent of such vetoes occurring since the beginning of World War II.[11] In addition, the practice has generally been confined to long intrasession adjournments [12] and to measures of relatively minor importance.[13]

Despite their dubious constitutionality, intersession and intrasession pocket vetoes remained largely unchallenged until the 1970's. However, in two recent cases, I successfully challenged the validity of such pocket vetoes. In 1974, the United States Court of Appeals for the District of Columbia Circuit declared invalid a pocket veto of a bill during a five-day congressional Christmas recess.[14] More significantly, I later challenged not only an intrasession pocket veto, but also a pocket veto exercised between the two sessions of the Ninety-Third Congress. The defendants consented to summary judgment in my favor in federal district court.[15]

This article will discuss the constitutionality of pocket vetoes exercised during intersession and intrasession adjournments of Congress by examining several factors: the intent of the framers of the Constitution, the two applicable precedents of the Supreme Court, recent court decisions, and fundamental considerations of public policy involved in the enactment of federal legislation.

I believe that the pocket veto power is valid only in circumstances involving the final adjournment at the end of a Congress. The pocket veto should not be available during intersession or intrasession adjournments because such adjournments do not "prevent" the return of bills to Congress within the meaning of the Constitution.

I. THE ACTIONS AND INTENTIONS OF THE FRAMERS OF THE CONSTITUTION

The pocket veto is an exception to the basic constitutional rule giving Congress the power of final action in the enactment of federal legislation.[16] The proceedings of the Constitutional Convention and the specific language and broad framework of the Constitution clearly demonstrate the intent of the framers that the veto power conferred on the President be a "qualified negative," not an "absolute negative." [17]

A. The proceedings of the Constitutional Convention

The proceedings of the Constitutional Convention provide significant insight into the meaning of the pocket veto clause and its application to adjournments of Congress.[18] The Committee of Detail prepared the first known precursor of the clause for inclusion in the first draft of the Constitution.[19] James Wilson of Pennsylvania wrote this first draft, which is Document VIII in Farrand's series of documents reflecting various stages of the Committee's work.[20] Document VIII contains the following provision, with the number of days left blank:

"If any Bill shall not be returned by the Governour within ——— Days after it shall have been presented to him, it shall be a Law, unless the Legislature, by their Adjournment, prevent its Return; in which Case it shall be returned on the first Day of the next Meeting of the Legislature." [21]

The second draft of the Constitution, Document IX in the Farrand series, is also in Wilson's hand, but has changes made by John Rutledge of South Carolina. In this draft, the pocket veto provision had been modified to read:

"If any Bill shall not be returned by the (President) within (seven) days after it shall have been presented to him; it shall be a Law, unless the Legislature by their Adjournment prevent its Return; in which case it shall (not)." [22]

Virtually identical language was contained in the draft constitution subsequently reported to the Convention by the Committee.[23] The only later change of consequence was an amendment setting ten days (Sundays excepted) as the period granted to the President for consideration of bills passed by the Congress.[24]

The changes that Rutledge made in Document IX are significant in the interpretation of the pocket veto clause. Document VIII and the original draft of Document IX indicate the Committee's view, at that stage of its deliberations, that Congress should always have the opportunity to override a presidential veto. Bills disapproved during an adjournment were to be returned to the next session of Congress, in accord with the practice at that time in New York.[25] Rutledge's modifications, especially his substitution of the word "(not)" for the closing words of the provision, diluted this absolute authority that Congress would otherwise have been empowered to wield over legislation. Given the Committee's clear emphasis on the prerogatives of Congress in Document VIII and the original version of Document IX, the most reasonable conclusion is that the final language of Document IX establishing the presidential pocket veto power should be narrowly construed.

The argument for a narrow construction of the pocket veto clause also finds support in the actions of the Committee of Detail with respect to a separate provision of the Constitution, the annual assembly clause. As finally adopted by the Convention, that clause provided that, "[t]he Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day." [26] Document IX also contains the first recorded precursor of the annual assembly clause. Like the modification that created the pocket veto clause, the reference in the same Document to the requirement that Congress assemble once each year is in Rutledge's handwriting. Congress, Rutledge wrote, was "[t]o meet on the 1st Monday every December." [27] Thus, at the very time Rutledge created the pocket veto clause by deleting from Document IX the provision requiring the return of a bill to the next "Meeting" of Congress, he also inserted a provision requiring Congress to "meet" on the first Monday of December each year. Surely Rutledge understood both "Meeting" and "meet" to refer to the assembling of Congress at the beginning of its annual session. In other words, in creating the pocket veto clause, Rutledge was envisioning only situations in which Congress had adjourned its annual session and would not "meet" again until the following December. The only adjournment of Congress that would "prevent" the return of a bill was the long adjournment at the end of one session until the beginning of a new one. If this analysis is correct, the final language of Document IX was intended to authorize the intersession pocket veto, but to exclude the intrasession pocket veto.[28]

The debates of the Constitutional Convention on the annual assembly clause reveal the rationale for the change made by Rutledge in Document IX. The framers contemplated that Congress would convene at its annual session, transact its business, and adjourn for relatively long periods before the beginning of the next session.[29]

Under Wilson's draft, if the President disapproved bills after Congress had adjourned its annual December session, he would have to return them to Congress for reconsideration in the following December, on the first day of the next annual session. The pocket veto clause was included in the Constitution in order to avoid the long periods of delay and uncertainty that inevitably would arise under this scheme with respect to the status of legislation.[30]

By contrast, there is no indication in the debates that the framers contemplated adjournments *within* a session of Congress other than the brief three-day recesses that the Constitution authorizes one house to take without the consent of the other.[31] Thirty-nine of the fifty-five delegates to the Convention were or had been members of the Continental Congress and were familiar with its practice of taking frequent, brief recesses of one or two days.[32] Substantial Christmas adjournments did not become an annual custom of Congress until the 1850's.[33] Moreover, the congressional practice of taking frequent intrasession breaks at other times during a session did not become routine until the 1960's.[34] As these practices were unknown to the framers, their obvious and sole concern in enacting the pocket veto clause was the avoidance of long delays and uncertainty over the status of legislation during the lengthy *intersession* breaks that they clearly anticipated.

B. The language and framework of the Constitution

The framers designed article I, section 7 of the Constitution to afford Congress the fullest practicable opportunity to reconsider bills disapproved by the President and to enact such measures into law by a two-thirds vote in each house. By subjecting presidential vetoes to further consideration by Congress, the framers cast the veto power as a "qualified negative" of the President, not an "absolute negative." Even Alexander Hamilton, the leading proponent of a strong executive, supported this check on the president's authority. In *The Federalist*, he wrote:

The king of Great Britain, on his part, has an absolute negative upon the acts of the two houses of Parliament. The disuse of that power for a considerable time past does not affect the reality of its existence; and is to be ascribed wholly to the crown's having found the means of substituting influence to authority, or the art of gaining a majority in one or the other of the two houses, to the necessity of exerting a prerogative which could seldom be exerted without hazarding some degree of national agitation. The qualified negative of the President differs widely from this absolute negative of the British sovereign . . .[35]

The inclusion of the pocket veto clause, conferring an "absolute negative" on the President in certain circumstances, was an exception to the basic principle that Congress was to have the final word in the enactment of legislation. That the framers granted the President a full ten days to consider a bill and determine his response reflects their desire to promote a certain degree of reciprocity in the legislative process.[36] However, by imposing no time limitation whatsoever on the period in which Congress can override a normal veto, the framers clearly indicated that they intended the preponderance of law-making authority to reside with the legislative branch.

When the ten-day period expires at a time when Congress is not in session, the basic principle is more difficult to apply. The problem arises in its most obvious form when Congress has gone out of existence by adjourning *sine die* at the end of its second

Footnotes at end of article.

session. Because the Congress that passed the bill no longer exists, reconsideration of the bill by that Congress is impossible.[37] In other cases, such as long adjournments at the end of a session or for lengthy periods of time within a session, reconsideration of the bill would be possible only after long delay.[38] In these situations, the framers faced the choice of either (1) requiring the President to act immediately on eleventh-hour legislation so that Congress could reconsider his action before adjourning, or (2) both allowing him the full ten-day period and specifying the status of bills he disapproved. The framers chose the latter course and prescribed that if the President declined to approve a bill in circumstances where he was unable to return it to Congress at the time he vetoed it, the bill would not become law.

The pocket veto is thus an extremely limited exception to the general principle of congressional supremacy in the enactment of federal statutes. It is an extraordinary power fashioned to deal with circumstances in which Congress's reconsideration of the President's action is impossible or possible only after long delay. Only in these very narrow circumstances did the founding fathers give the President an "absolute negative." [39] To permit the use of the pocket veto during brief intersession or intrasession adjournments of Congress would transform the pocket veto into a major presidential encroachment on congressional power. Because the framers left some flexibility in the text of the Constitution, however, Presidents could—and did—exercise the pocket veto power in inappropriate circumstances.[40] The federal courts remained the sole potential check on excessive presidential power in this area.

II. THE POCKET VETO IN THE SUPREME COURT

The Supreme Court had no occasion to determine the validity of a presidential pocket veto until *The Pocket Veto Case* in 1929.[41] In June, 1926, the first session of the Sixty-Ninth Congress approved a private bill authorizing Indian tribes in the State of Washington to pursue claims against the United States in the Court of Claims. After presenting the bill to President Coolidge, but before the ten-day constitutional period for considering the bill had expired, Congress adjourned for five months.[42] The President neither signed the measure nor returned it to Congress. Maintaining that the bill had become law, the Indian tribes filed a petition in the Court of Claims, asserting without success the claims authorized by the bill.[43] The Supreme Court affirmed the dismissal of the petition by the Court of Claims, holding that the bill had been properly pocket vetoed and therefore had not become law.[44]

The Court emphasized that the dispositive issue was whether the adjournment "prevent[ed]" the President from returning the bill to Congress.[45] Writing for the Court, Mr. Justice Sanford concluded that the adjournment did prevent such return. He reasoned that, in speaking of the "return" of a bill to a house, the Constitution was referring to a *house in session*. A bill cannot be "returned," in the constitutional sense, to an officer or agent of a house when the house is not in session.[46] The Court also alluded to the framers' desire to avoid uncertainty with respect to the status of legislation approved by Congress and to avoid a procedure that would involve: "keeping the bill in the meantime in a state of suspended animation until the House resumes its sittings, with no certain knowledge on the part of the public as to whether it had or had not been reasonably delivered, and necessarily causing delay in its reconsideration which the Constitution evidently intended to avoid.[47]

Footnotes at end of article.

Because one goal of the pocket veto clause is the avoidance of uncertainty, the holding of the Court applying the clause to a long *sine die* adjournment of a session of Congress is relatively easy to justify. If, at the beginning of a new session, Congress were to have the opportunity to reconsider a bill disapproved by the President at the beginning of a long adjournment following the previous session, the status of the bill would be uncertain throughout the adjournment.[48]

Nine years later, the Supreme Court again considered the scope of the President's pocket veto power. In *Wright* v. *United States*,[49] the bill in question was a private relief measure granting jurisdiction to the Court of Claims to hear the petitioner's claims against the United States. After the measure was presented to President Roosevelt, the Senate, which was the house of origin, adjourned for three days while the House remained in daily session. During the recess of the Senate, the ten-day period expired. The President disapproved the bill and returned it with his objections to the Secretary of the Senate. When the body reconvened, the message of the President was read, but neither house of Congress attempted to override the veto.[50]

The beneficiary of the private bill filed a petition in the Court of Claims, tendering a somewhat ingenious two-part argument that the measure had become law. First, he argued that the President's purported use of his normal veto power was invalid because the Senate had not been in session on the day the bill was returned; and, according to *The Pocket Veto Case*, a return to an agent of the Senate was therefore improper.[51] Second, he argued that a pocket veto was also unavailable; since only the Senate had adjourned, there had been no adjournment of "Congress" within the meaning of the pocket veto clause.[52] Under this line of reasoning, the house in which a bill originated could completely deprive the President of his power to disapprove that bill by adjourning while the other house remained in session.[53]

In response to the beneficiary, the government agreed that the adjournment of the Senate, however brief, barred a valid return by the President.[54] However, the Solicitor General also argued that such adjournments *automatically* "trigger" the pocket veto clause.[55] Acceptance of this view would lead to the equally undesirable result of expanding the pocket veto power immensely, for that power would become available whenever a single house adjourned, with the result that Congress would have no opportunity to review the veto.

The Supreme Court wisely steered a middle course between these extreme positions. In affirming the denial of the beneficiary's petition by the Court of Claims, the majority opinion by Chief Justice Hughes[56] concluded that since the House of Representatives had remained in session during the brief adjournment of the Senate, "Congress" had not "adjourned" within the meaning of the pocket veto clause, and the bill consequently had not been subject to a pocket veto.[57] The Court also determined, however, that the three-day Senate recess did not "prevent" the President from returning the bill with his objections to the Senate, since the Secretary of the Senate was available to receive the President's message.[58] The President's action was a valid "return" and a normal veto within the meaning of article I, section 7. Since Congress had not overridden the veto, the bill had not become law.[59]

The *Wright* decision recognizes that normal vetoes and pocket vetoes are mutually exclusive devices. A pocket veto is valid only when both houses of Congress have "adjourned" *and* when such an adjournment "prevents" the return of the bill in question. If either of these conditions is lacking, then the President may exercise his regular veto power.

Wright substantially modified the earlier holding of *The Pocket Veto Case*. As was his custom,[60] Chief Justice Hughes distinguished the two cases on their facts and left the earlier holding intact. In reality, however, the rationale of *The Pocket Veto Case* was almost entirely undercut. Justice Sanford had based the Court's strong affirmation of the presidential pocket veto power upon the conclusion that a bill must be returned to a house of Congress actually in session, not to an officer or agent of a house.[61] The Court in *Wright* repudiated this conclusion by holding that, during a three-day recess, a return of the bill to the agent of the house of origin was appropriate.

"Here, the recess of the Senate from May 4th to May 7th was during the session of Congress. . . In returning the bill to the Senate by delivery to its Secretary during the recess there was no violation of any express requirement of the Constitution. The Constitution does not . . . deny the use of appropriate agencies in effecting the return.

"Nor was there any practical difficulty in making the return of the bill during the recess. The organization of the Senate continued and was intact. The Secretary of the Senate was functioning and was able to receive, and did receive, the bill. Under the constitutional provision the Senate was required to reconvene in not more than three days and thus would be able to act with reasonable promptitude upon the President's objections. . . . To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress, and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the plainest practical considerations and by implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right." [62]

The adjournment of only one house and availability of an agent of Congress were not the sole considerations in *Wright*. Chief Justice Hughes also distinguished the long *sine die* adjournment in *The Pocket Veto Case* from the temporary three-day recess in *Wright*.[63] The length of the adjournment, therefore, was a significant factor in determining the validity of a pocket veto. By including this factor in its analysis, the Court in *Wright* further limited the rationale of *The Pocket Veto Case*, in which the Court considered the physical presence of the Congress as the dispositive factor.[64] Chief Justice Hughes observed that this emphasis on Congress actually being in session "should not be construed so narrowly as to demand that the President must select a precise moment when the House is within the walls of its Chambers and that a return is absolutely impossible during a recess however temporary." [65]

The Chief Justice found that the danger of long uncertainty in the status of legislation, a factor which led the Court in *The Pocket Veto Case* to the view that a bill must be returned to a house in session and not to its agents during a *sine die* adjournment, did not exist whe one house recessed for three days. Chief Justice Hughes referred to such difficulties as "illusory" when there is a temporary recess.

"In such case there is no withholding of the bill from appropriate legislative record for weeks or perhaps months, no keeping of the bill in a state of suspended animation with no certain knowledge on the part of the public whether it was seasonably delivered, no causing of any undue delay in its reconsideration. When there is nothing but such a temporary recess the organization of the House and its appropriate officers continue

to function without interruption, the bill is properly safeguarded for a very limited time and is promptly reported and may be reconsidered immediately after the short recess is over." [66]

Dictum near the end of *Wright* suggests that the length of the adjournment was an important concern of the Court.[67]

"We are not impressed by the argument that while a recess of one House is limited to three days without the consent of the other House, cases may arise in which the other House consents to an adjournment and a long period of adjournment may result. We have no such case before us and we are not called upon to conjecture as to the nature of the action which might be taken by the Congress in such a case or what would be its effect." [68]

The specific question that the Court was reserving was whether the pocket veto clause might apply to long recesses even if only one house was in adjournment. The Court was suggesting that the first prong of its holding, that both houses of Congress must be in adjournment before the pocket veto clause comes into play at all, might not be applicable in circumstances involving long adjournments of one house only. If so, then one of the two major distinctions between *Wright* and *The Pocket Veto Case*—that *Wright* involved an adjournment of only one house, whereas *The Pocket Veto Case* involved an adjournment of both houses—must give way to the more important distinction between the lengths of adjournment in the two cases.

This latter element is of obvious significance to the present controversy concerning the use of pocket vetoes during brief intersession and intrasession adjournments. One may reason with some confidence that the Court would not have seen any significant distinction between these types of adjournments and the three-day adjournment of the Senate in *Wright*. During brief intersession and intrasession adjournments, the dangers of uncertainty are, as Chief Justice Hughes noted, illusory. There is no withholding of the bill from any appropriate legislative record for weeks or months. There is no prolonged state of suspended animation or uncertainty with regard to the status of the bill. There is no undue delay in the reconsideration of the bill. The organization of the Senate and its appropriate officers continue to function without interruption during the short adjournments. The prospect that the public will not be properly informed of the return of the bill with the President's objections, or that the bill will not be properly safeguarded or duly recorded upon the journal of the Senate, or that it will not be subject to prompt action by the Senate, is highly improbable. In other words, each of the concerns raised by Chief Justice Hughes in *Wright* is met.[69]

By making time a governing factor in *Wright*, the Court restricted the availability of the pocket veto power and upheld the veto at issue as a normal veto. No longer could the President cite the mere adjournment of Congress as justification for employing the pocket veto and depriving Congress of an opportunity to reconsider. As long as an agent is available to receive a veto message on behalf of his house, the factor that will determine the type of veto to be used is the length of the adjournment.[70] Unfortunately, the Court limited its holding in *Wright* to a three-day adjournment and gave no guidelines concerning how long an adjournment would be required to activate the pocket veto clause. For over three decades, no case raising this issue arose in the federal courts.

Footnotes at end of article.

III. THE POCKET VETO AND THE COURTS IN THE 1970'S:

Kennedy v. Sampson and Kennedy v. Jones

On December 14, 1970, the Ninety-First Congress passed the Family Practice of Medicine Act [71] and presented it to President Nixon for his signature. On December 22, Congress adjourned for the Christmas holidays. Two days later, on December 24, the President issued a Memorandum of Disapproval announcing his decision to pocket veto the bill.[72] The Senate, the house where the bill originated, resumed its session on December 28, and the Ninety-First Congress adjourned *sine die* on January 2, 1971. The circumstances surrounding President Nixon's pocket veto of the Family Practice of Medicine Act bear two dubious distinctions—the five-day Christmas recess in 1970 is the shortest intrasession adjournment during which any President exercised a pocket veto.[73] and the bill itself is the most significant piece of legislation ever subjected to an intrasession pocket veto.[74]

In an era of collision between Congress and the President over their respective constitutional prerogatives in areas such as war powers, impoundment of funds, and executive privilege, Congress protested the pocket veto of the Act.[75] In August, 1972, I filed a complaint in the United States District Court for the District of Columbia and sought an injunction and a declaratory judgment that the pocket veto was invalid and that the bill had become law without the President's signature.[76] In the resulting decision, *Kennedy v. Sampson*, the district court entered summary judgment in my favor,[77] and the judgment was affirmed by the United States Court of Appeals for the District of Columbia Circuit.[78]

In its analysis, the court of appeals considered *The Pocket Veto Case* and *Wright* and held unanimously that President Nixon's pocket veto of the Family Practice of Medicine Act was unconstitutional because the brief adjournment in question did not prevent the President from returning the bill to Congress. Although the case involved a five-day intrasession adjournment, the court made clear that its holding was intended to apply to *all* intrasession adjournments, whatever their length.

"[T]he case is an appropriate one for disposition of the question of whether any intrasession adjournment, as that practice is presently understood, can prevent the return of a bill by the President where appropriate arrangements have been made for receipt of presidential messages during the adjournment—a question which must be answered in the negative." [79]

Analyzing the text, purpose, and history of the pocket veto clause, the decisions of the Supreme Court interpreting the clause, and the modern practice of Congress with respect to adjournments, the court of appeals concluded that the five-day adjournment came within the logic and reasoning of *Wright*, which authorized bills to be returned by the President to agents of Congress during certain adjournments.[80] The court also concluded that the fears expressed in *The Pocket Veto Case* [81] were inapplicable to the modern congressional practice of short intrasession adjournments. Such adjournments involve neither long delay nor public uncertainty in resolving the status of bills disapproved by the President. Modern methods of communication make it possible for the return of a disapproved bill to an appropriate agent to be a matter of public record accessible to every citizen.[82] Finally, the court rejected the view that prior executive practice of intrasession pocket vetoes sustained the pocket veto here. The court noted that an executive practice could not create an executive power, and found the rationale behind the practice unpersuasive in any event.[83]

The declaration in *Kennedy v. Sampson* that all intrasession pocket vetoes are unconstitutional represents a substantial restriction of the presidential veto power. Also significant was the court's failure to restate the traditional black letter law, based on *The Pocket Veto Case*, that a pocket veto is always valid during an *intersession* adjournment of Congress. Instead, the court emphasized the long duration of the adjournment involved in *The Pocket Veto Case*, as contrasted to the shorter adjournments now taken by Congress.[84] Essentially, the court in *Sampson* analyzed *The Pocket Veto Case* solely on the basis of factors relating to the length of the adjournment, and declined to distinguish between intersession and intrasession adjournments. Thus, the court's method and analysis comports with the view that the pocket veto power is unavailable to the President during any intrasession adjournments and during brief intersession adjournments.

The Solicitor General declined to seek review by the Supreme Court of the decision in *Kennedy v. Sampson*. After the district court's decision, but before the court of appeal's affirmance, President Nixon pocket vetoed a transportation bill [85] during the twenty-nine-day adjournment in January, 1974, between the first and second sessions of the Ninety-Third Congress (an intersession pocket veto). After the final decision in *Sampson*, President Ford, directly flouting the court's ruling therein, pocket vetoed an aid-to-the-handicapped bill [86] in October, 1974, during the thirty-one-day intrasession adjournment for the congressional elections. I challenged both of these actions in federal district court in *Kennedy v. Jones*.[87] After a decision by the court on preliminary questions,[88] the Department of Justice agreed to the entry of summary judgment invalidating both the intersession and intrasession pocket vetoes involved.[89]

Jones is a major cutback on the pocket veto power. By agreeing to summary judgment, the executive branch conceded that the President may not constitutionally pocket veto a bill during a thirty-one-day intrasession adjournment, which far exceeds the five-day adjournment held in *Sampson* not to activate the pocket veto power. Because present intrasession adjournments of Congress rarely exceed thirty-one days,[90] *Jones* makes a constitutional intrasession pocket veto highly unlikely. The Ford Administration's acceptance of the view—implied by the rationale of *Sampson*—that the pocket veto power is inapplicable to intersession adjournments of Congress was even more important. After *Sampson* and *Jones*, the pocket veto power appears clearly constitutional only with regard to a *sine die* adjournment after the final session of a Congress. In effect, *The Pocket Veto Case* has been confined to its facts, and the intersession pocket veto has become an obsolete relic.

Of course, neither *Sampson* nor *Jones* carries the precedential authority of a Supreme Court decision.[91] A future administration might, therefore, choose to relitigate the issue in the federal courts, although the prospect of success seems remote indeed.

IV. WHERE TO DRAW THE LINE: SOME POLICY CONSIDERATIONS

To sustain the exercise of the pocket veto during intrasession and brief intersession adjournments of Congress would be a substantial expansion of the President's absolute veto power, a corresponding reduction in the authority of Congress, and, therefore, a significant shift in the balance of power from the legislative to the executive branch. For example, because the Senate and House

of Representatives passed the Family Practice of Medicine Act overwhelmingly,[92] Congress would probably have easily overriden a normal veto of that bill. Following the pocket veto, however, the action of the President was final, and Congress had no opportunity to address the President's action in disapproving it.

The paramount concern of the framers was to avoid extended delay, uncertainty and confusion over the status of legislation. As noted above, they probably intended the pocket veto clause to apply during any adjournment between sessions of Congress.[93] Though the framers' concerns made sense in 1787 in light of the lengthy congressional adjournments, the dispersal of members, and the lack of rapid communication and transportation facilities, such concerns no longer exist. The adjournments after the first session of a Congress are no longer many months in duration. In fact, intersession adjournments of the four most recent Congresses have been thirty, twenty-nine, thirty-one, and twenty-six days, respectively; [94] or no longer than the duration of some of the frequent intrasession adjournments.

If the framers had intended the pocket veto clause to apply inflexibly to such adjournments, they could have so specified. Instead, with their extraordinary foresight, they chose language flexible enough to accommodate the changed circumstances of the modern Congress, so that intrasession and short intersession adjournments do not necessarily "prevent" the President from returning bills to Congress. The pocket veto clause may apply to long intersession adjournments in the unlikely event that Congress resumes that past practice.

During the early Congresses, there was no practical difference between an intersession adjournment at the end of the first session and the final adjournment at the end of a Congress.[95] In this respect, the early Congresses followed the contemporary practice of the British Parliament. Because of the long period between sessions, unfinished legislative business "died" with the adjournment of each session, and Congress began its business anew at the beginning of the next session. By 1816, however, the practice had come under question. In 1818, the House of Representatives began to carry over its business from one session to the next within a Congress, and the Senate followed suit in 1848. The procedure was applied to committee business in 1860, and the modern practice was established.[96] A century later, with Congress a year-round operation, circumstances have changed sufficiently to make the intersession pocket veto a historical anomaly in the modern legislative process.[97]

The use of the pocket veto during intrasession adjournments would raise the specter of absolute vetoes whenever Congress takes a recess, however brief. There is no obvious dividing line based on the length of an adjournment. Congress is seldom in recess within a session for more than a month at a time. If the device of the pocket veto is available for a five-day adjournment as the President contended in *Sampson*, why not for an adjournment of three days, a weekend, one day, or even overnight? Since the ten-day period for the President's consideration of legislation expires at midnight of the tenth day, and since Congress is virtually always in adjournment at midnight, the *reductio ad absurdum* is that virtually every piece of congressional legislation could be vulnerable to a pocket veto.[98]

Thus, strong policy considerations militate against application of the pocket veto during both intrasession and intersession adjournments. Neither type of adjournment affects the status of other pending legislation. The same Congress reconvenes, and all its bills are carried forward. Further, the interval between the end of the first session and the beginning of the second session of a Congress now tends to be relatively brief—often no longer than an intrasession recess and, on occasion, even shorter.

The problem becomes one of line-drawing. Conceivably, a court might adopt a case-by-case approach under which the pocket veto would be available only under circumstances involving relatively long adjournments within or between sessions of Congress. Such a rule, however, could engender serious uncertainty and require lengthy litigation to determine the validity of particular applications of the pocket veto clause. By ruling that a pocket veto is invalid during any adjournment within a session of Congress, the court in *Sampson* avoided the uncertainty and repeated political entanglements involved in a case-by-case approach, as well as the arbitrariness of a fixed dividing line based on the length of adjournments.

The holding of *Sampson* produces no protracted uncertainty with respect to the status of legislation passed by Congress but disapproved by the President. The growing workload of Congress requires that adjournments within a session or between sessions be at most a few weeks, rather than months. As a result, if bills are returned to Congress by the President during intrasession or intersession adjournments, there will be only brief delays before Congress has the opportunity to reconsider them. The delay ordinarily will be no greater than a month.

Intersession adjournments and the increasingly frequent, but brief, intrasession adjournments within longer sessions are a convenient way for Congress to reconcile its growing workload with the need for members to spend adequate time in their constituencies. Thus, the lengthening congressional work year is eliminating the need for the pocket veto as conceived by the founders—Congress is never out of session for months on end.

It is unrealistic to say that if Congress wishes, it can simply pass a pocket vetoed bill again and present it to the President at a time when the pocket veto cannot be used. At best, this route is unnecessarily repetitive and time-consuming, involving subcommittee and full committee action as well as proceedings on the floors of both the Senate and the House. At worst, if the unique alchemy of public and private interests that enabled the legislative process to function successfully the previous time around has disappeared, the result may be that the bill cannot be passed again.

Nor is it an answer to say that Congress can adjust its schedule to insure that one or both Houses are in session when the President's ten-day period expires. Given the current practice of frequent intrasession adjournments and the year-end intersession adjournment, such a procedure would add unnecessary complexity and delay to the business of Congress. Proponents and opponents of bills would manipulate the legislative calendar for political advantage, and Congress would lose a substantial part of its present discretion to select the most favorable time for presenting legislation to the President.

In contrast, on the basis of policy, history, precedent, and the modern practice of Congress, a substantial case can be made for application of a pocket veto following final adjournment at the end of a Congress. After the final adjournment, the Congress that passed a bill no longer exists, and therefore cannot return to reconsider the bill. The presence of an authorized agent to receive a veto message is irrelevant. All other legislation pending in Congress at the time of the final adjournment dies, so the fate of the pocket vetoed bill is no different from the fate of all other unfinished business. In an obvious sense, the final adjournment of Congress "prevents" the return of the bill, and the bill should not become a law if the President refuses to sign it.

V. CONCLUSION

Kennedy v. Sampson, reinforced by the summary judgment in *Kennedy v. Jones*, has all but precluded the possibility of a constitutional intrasession or intersession pocket veto. The rationale of *Sampson* persuasively stresses the length of the adjournment as the decisive factor, and the rationale finds solid support in the intentions and actions of the framers. Nothing in the Supreme Court's decisions in *The Pocket Veto Case* or in *Wright v. United States* compels a court to hold that a pocket veto is valid during a brief intersession adjournment of a Congress. As in *Sampson*, the clear focus of the Court's holding in *Wright* was on the length of the adjournment. To the extent *The Pocket Veto Case* survives at all as a precedent after *Wright*, it is easily distinguishable as involving a lengthy intersession adjournment of several months, compared to the modern practice of one-month adjournments between sessions of a Congress. In addition, with respect to *The Pocket Veto Case*, the Court's apparent unawareness of the historical evidence available regarding the proceedings of the Constitutional Convention renders its analysis of the pocket veto clause even less persuasive.

By distinguishing *The Pocket Veto Case* and following the path clearly charted by Chief Justice Hughes in *Wright* and by the court of appeals in *Sampson*, it is possible to end the confusion surrounding the status of the pocket veto, restore the intent of the framers of the Constitution, and establish a policy that fits our modern needs. Unless the rationale of *Sampson* prevails, the opportunities for use of the pocket veto may proliferate, thereby transforming the pocket veto from a sleepy end-of-session housekeeping measure into a potent political weapon for quashing popular legislation.

FOOTNOTES

[1] U.S. CONST. art. I, § 7 provides, *inter alia*, that:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. . . . If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, *unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law*. (emphasis added).

[2] THE OXFORD ENGLISH DICTIONARY 1037 (1971) traces the first use of "pocket," in the sense of suppressing a bill or report, to a pun on the word in W. SHAKESPEARE, THE TEMPEST, Act II, Sc. i, Lines 60–67:

Gonzalo: That our garments, being, as they were, drench'd in the sea, hold, notwithstanding, their freshness and glosses, being rather new-dy'd than stain'd with salt water.

Antonio: If but one of his pockets could speak, would it not say he lies?

Sebastian: Ay, or very falsely pocket up his report.

See W. SAFIRE, THE NEW LANGUAGE OF POLITICS 505 (1972).

[3] Congress adjourns *sine die*, "without

day," at the end of each annual session, including the end of a Congress. On these occasions, it adjourns without specifying a date for its return in the adjournment resolution. Section 2 of the twentieth amendment to the Constitution provides that Congress shall convene on January 3 of each year unless Congress by statute establishes a different date. Adjournments within a session are taken to a date certain specified in the adjournment resolution, which takes the form of a motion in each house if the adjournment is for three days or less or a concurrent resolution of both houses if the adjournment is for a longer period. U.S. CONST. art. I, § 5.

[4] *See Hearings on the Constitutionality of the President's "Pocket Veto" Power Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess., 119–73 (1971) [hereinafter cited as *Pocket Veto Hearings*]. Henry Clay mounted one of the few serious challenges to this type of pocket veto, asserting that President Andrew Jackson's pocket veto of Clay's controversial public lands bill at the end of the Twenty-Second Congress in 1833 was unconstitutional. 10 CONG. DEB. pt. I, 14–18 (1833). *See* note 36 *infra*.

[5] 279 U.S. 655 (1929). *See* notes 41–48 *infra* and accompanying text.

[6] 302 U.S. 583 (1938). *See* notes 49–70 *infra* and accompanying text.

[7] In this century alone, beginning with President Theodore Roosevelt, Presidents have pocket vetoed 191 bills during intersession adjournments of Congress. Brief for Plaintiff, Exhibit 6, Kennedy v. Jones, 412 F. Supp. 353 (D.D.C. 1976). *See also* SENATE LIBRARY, PRESIDENTIAL VETOES: RECORD OF BILLS VETOED AND ACTION TAKEN THEREON BY THE SENATE AND HOUSE OF REPRESENTATIVES, FIRST CONGRESS THROUGH THE NINETIETH CONGRESS, 1789–1968 (1969); *Calendars of the United States House of Representatives and History of Legislation, 92d Congress* 108 (fin. ed. 1972): *Calendars of the United States House of Representatives and History of Legislation, 91st Congress* 110 (fin. ed. 1971).

[8] Of the 27 intersession adjournments during which pocket vetoes were used in this century, only five involved adjournments of one month or less; 18 involved adjournments of three months or longer. *See* SENATE LIBRARY, *supra* note 7; CONG. DIR., 94th Cong., 2d Sess. 404–10 (1976).

[9] *See* note 94 *infra* and accompanying text.

[10] In the spring of 1867, the Fortieth Congress completed action on a joint resolution, H.R.J. Res. 6, 40th Cong., 1st Sess. (1867), placing troops in the Missouri State Militia on an equal footing with Union forces with respect to benefits authorized by Congress for service in the Civil War. Senator Edmund Ross of Kansas, Chairman of the Senate Committee on Enrolled Bills, put the resolution in his desk and forgot it was there. CONG. GLOBE, 40th Cong., 1st Sess. (1867). Eight days later, Congress adjourned for a spring recess until July 3. The resolution was discovered and presented to President Andrew Johnson for his signature. The President refused to sign the measure into law because he shared the then-prevailing views that he had constitutional authority to approve legislation only while Congress was actually in session. *See Pocket Veto Hearings, supra* note 4, at 144. Thus was born the intrasession pocket veto. With respect to end-of-session adjournments, the practice in the nineteenth century was for the President to go up to the Capitol during the closing hours of the session in order to sign bills he wished to approve. The presidential power to sign bills during adjournments of Congress was not established until La Abra Silver Mining Co. v. United States, 175 U.S. 423 (1899) (bill may be signed into law during intrasession adjournment), and Edwards v. United States, 286 U.S. 482 (1932) (bill may be signed into law after *sine die* adjournment).

[11] Records through the end of the Ninety-fourth Congress document a total of 43 intrasession pocket vetoes under the following Presidents: Andrew Johnson (4), Benjamin Harrison (1), Cleveland (2), Hoover (1), Franklin Roosevelt (10), Truman (6), Eisenhower (7), Lyndon Johnson (2), Nixon (5), and Ford (5). Through 1974, Presidents had used 1326 normal vetoes, as well as over 900 pocket vetoes during *sine die* adjournments. *See* Brief for Plaintiff, Exhibits 1 and 3, Kennedy v. Jones, 412 F. Supp. 353 (D.D.C. 1976). *See also* SENATE LIBRARY, *supra* note 7, at 17–19, 60, 69, 99, 153–55, 170–71, 189, 198, 203, 205 (1969); *Calendars of the United States House of Representatives and History of Legislation, 92d Congress* 108 (fin. ed. 1972); *Calendars of the United States House of Representatives and History of Legislation, 91st Congress* 110 (fin. ed. 1971).

[12] Before President Nixon took office, there had been only three pocket vetoes during adjournments of 10 days or less—one each by Presidents Roosevelt in 1944 (10 days), Eisenhower in 1956 (10 days), and Johnson in 1964 (9 days). SENATE LIBRARY, *supra* note 7, at VI—VIII, 154, 189, 203.

[13] Of the 43 intrasession pocket vetoes, *see* note 11 *supra*, 29 have involved private bills for the relief of particular individuals or corporations. Virtually all of the remaining 14 bills appear to have been public bills of little significance. *See generally* SENATE LIBRARY, *supra* note 7.

[14] Kennedy v. Sampson, 511 F.2d 430 (D.C. Cir. 1974), *aff'g* 364 F. Supp. 1075 (D.D.C. 1973).

[15] Kennedy v. Jones, 412 F. Supp. 353 (D.D.C. 1976).

[16] Kennedy v. Sampson, 511 F.2d 430, 437 (D.C. Cir. 1974).

[17] The absolute veto possessed by the King of England and most of the colonial governors had been a major source of friction in the pre-revolutionary period, and was the first of the specific grievances cited by the colonists against George III in the Declaration of Independence. The Constitutional Convention expressly rejected the concept of an absolute veto. *See* 1 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 292, 300 (rev. ed. 1937); 2 *id.* at 71. For a general discussion of the background and nature of the veto power, *see* Zinn, *The Veto Power of the President*, 12 F.R.D. 207 (1951).

[18] The traditional view has been that "[n]o light is thrown on the meaning of the constitutional provision in the proceedings and debates of the Constitutional Convention. . . ." The Pocket Veto Case, 279 U.S. 655, 675 (1929).

[19] The proceedings and preliminary conclusions of the Convention in May, June, and July of 1787 were referred to a five-member Committee of Detail on July 23. On July 26, the Convention adjourned for ten days to permit the Committee to prepare a draft of a constitution. The Chairman was John Rutledge of South Carolina; other members were Oliver Ellsworth of Connecticut, Nathaniel Gorham of Massachusetts, Edmund Randolph of Virginia, and James Wilson of Pennsylvania. 1 M. FARRAND, *supra* note 17, at xxii; 2 *id.* at 97. In the materials known to have been referred to the Committee, the only reference to what ultimately became the veto provisions of the Constitution was a resolution stating that, "the national Executive shall have a Right to negative any legislative Act, which shall not be afterwards passed, unless by two third Parts of each Branch of the National Legislative [sic]," 2 *id* at 132. There was no reference to a pocket veto.

[20] 2 M. FARRAND, *supra* note 17, at 159. The first draft of the Constitution is in two parts, Documents VI and VIII.

[21] 2 M. FARRAND, *supra* note 17, at 161–62. This provision probably was based on article III of the New York Constitution of 1777:

And in order to prevent any unnecessary delays, *Be it further ordained*, that if any bill shall not be returned by the council, within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said ten days.

[22] 2 M. FARRAND, *supra* note 17, at 167. Parts lined through indicate words crossed out in the manuscript of Document IX. Parentheses indicate words added by Rutledge. The logical inference is that Rutledge also crossed out the words in this passage.

[23] 2 *id.* at 181.

[24] 2 *id.* at 295, 302. A subsequent draft was prepared by the Committee of Style, and on September 17, 1787, the state delegations approved the Constitution. *Id.* at 565, 664–65.

[25] *See* note 21 *supra*.

[26] U.S. CONST. art. I, § 4, cl. 2. The requirement was changed by the twentieth amendment to the Constitution, adopted in 1933. *See* note 3 *supra* & note 33 *infra*.

[27] 2 M. FARRAND, *supra* note 17, at 163. Subsequently, the Convention adopted an amendment to this provision authorizing Congress to set a different date by statute. *See* U.S. CONST., art. I, § 4, cl. 2.

[28] This analysis suggests that the framers intended the pocket veto to be applicable during *sine die* adjournments both at the end of a Congress and at the end of the first session of a Congress. In fact, the pocket veto was first used to disapprove a bill in 1812 during the *sine die* adjournment of a first session. *See* H.R. 170, 12th Cong., 1st Sess. (1812); 25 ANNALS OF CONG. 17 (1812) (Message of President Madison to the Second Session explaining his objections). During the early Congresses, there was no practical difference between *sine die* adjournments at the end of a session and those at the end of a Congress. Unfinished legislative business died with the adjournment of each session and began anew at the beginning of the next session. *See* notes 95–96 *infra* and accompanying text.

[29] James Madison's journal gives the following account of the debate on August 7, 1787, on the question whether the session should begin in May or December:

Mr. Govr. Morris moved to strike out Decr. & insert May. It might frequently happen that our measures ought to be influenced by those in Europe, which were generally planned during the Winter and of which intelligence would arrive in the Spring.

Mr. [Madison] 2ded the motion, he preferred May to Decr. because the latter would require the travelling to & from the Seat of Govt. in the most inconvenient seasons of the year.

Mr. Wilson. The Winter is the most convenient season for business.

Mr. Elseworth [sic]. The summer will interfere too much with private business, that of almost all the probable members of the Legislature being more or less connected with agriculture.

Mr. Randolph. The time is of no great moment now, as the Legislature can vary it. On looking into the Constitution of the States, he found that the times of their elections with which the elections of the Natl. Representatives would no doubt be made to co-inside, would suit better with Decr. than May. And it was advisable to render our innovations as little incommodious as possible.

2 FARRAND, *supra* note 17, at 199–200.

[30] Subsequent events amply confirmed the expectation that the adjournments between

sessions would be lengthy. In the case of the "short" or "lame duck" session—the session convening on the first Monday in December in even-numbered years and expiring at the end of a Congress on March 3 in odd-numbered years—the delay until the beginning of the next session was often nine months. In the case of the "long" session—the session convening in December in odd-numbered years—adjournment *sine die* usually took place in the following spring, and the delay until the next session was often six months or longer. As recently as 1931, Congress took a nine-month adjournment between sessions, and adjournments of three to six months were common in the 1950's and early 1960's. *See, e.g.*, CONG. DIR., 94th Cong., 2d Sess. 404–10 (1976).

[31] *See* U.S. CONST. art I, § 5.

[32] For example, in 1786, the Continental Congress was in session from January 2 to November 13. During that period, excluding Sundays, there were 39 recesses for one day, 6 for two days, and 1 for four days. Brief for Petitioner at 12, Wright v. United States, 302 U.S. 583 (1938). From September 13, 1775 until June 3, 1784, the Congress had been in almost continuous session while it conducted the Revolutionary War. Christmas recesses were limited to Christmas day, or to two days when Christmas fell on Saturday or Monday; intervals of from two to eight days occurred when Congress moved to avoid the British forces. The Congress's longest formal adjournment—from June 3, 1784 to November 1 of that year—came immediately after peace was concluded, although from 1785 until the Congress ceased to exist on March 2, 1789, there were frequent de facto interruptions of its business because of absenteeism. *See* U.S. GOV'T PRINTING OFFICE, JOURNALS OF THE CONTINENTAL CONGRESS 1774–1789 (1904–1937); E. BURNETT, THE CONTINENTAL CONGRESS (1941).

[33] According to an unpublished compilation of the Senate Library, brief intrasession adjournments over the Christmas holidays occurred in 1800 (five days), 1817 (four days), and 1828 (four days). Beginning in 1857, and virtually without exception thereafter through 1932, Congress took two-week adjournments over the Christmas holidays. The principal reasons for this shift in practice were (1) the approval of legislation in 1856 shifting the salary of members of Congress from a per diem to an annual basis, thereby avoiding the potential embarrassment of members drawing salaries while on holiday, Act of Aug. 16, 1856, ch. 123, 11 Stat. 48; (2) congressional reapportionment after the 1850 census, causing an influx of new western members into the House of Representatives who needed more time to travel back and forth to Washington during the holidays, *see generally* F. RIDDICK, THE UNITED STATES CONGRESS ORGANIZATION AND PROCEDURE 441 (1949); and (3) the perennial difficulty of obtaining a quorum for the transaction of business during the holidays. The ratification of the twentieth amendment in 1933 advanced the date for convening the annual session of Congress to January 3 and made it likely that Congress would adjourn *sine die* before the Christmas holidays.

[34] *See* CONG. DIR., 94th Cong., 2d Sess. (1976), as supplemented by an unpublished compilation of the Senate Library. Intrasession adjournments, other than for Christmas, occurred in 1865 (four days), 1867 (three and four months), 1868 (four months), 1916 (four days), 1919 (six days), 1929 (two months), and 1936 (six days). Thereafter, through 1966, there were usually one or two intrasession adjournments each year. Since 1967, intrasession adjournments have become even more frequent, *Id.*

[35] THE FEDERALIST, No. 69, at 416–17 (New Am. Lib. ed. 1961).

[36] *See* Wright v. United States, 302 U.S. 583 (1938); Edwards v. United States, 286 U.S. 482 (1932); La Abra Silver Mining Co. v. United States, 175 U.S. 423 (1899). James Madison, whose journal constitutes one of the foremost authorities on the proceedings of the Constitutional Convention, believed strongly in reciprocity. In 1833, discussing President Jackson's pocket veto of Henry Clay's public lands bill, Madison wrote to Clay:

It is obvious that the Constitution meant to allow the President an adequate time to consider the Bills &c presented to him, and to make his objection to them; and on the other hand that Cong. should have time to consider and overrule the objections. A disregard on either side of what it owes to the other, must be an abuse, for which it would be responsible under the forms of the Constitution. An abuse on the part of the President, with a view sufficiently manifest, in a case of sufficient magnitude to deprive Cong. of the opportunity of overruling objections to their bills, might doubtless be a ground for impeachment. . . . In order to qualify (in the French sense of the term) the [pocket veto] of the Land bill by the President, the first inquiry is, whether a sufficient time was allowed him to decide on its merits; the next whether with a sufficient time to prepare his objections, he unnecessarily put it out of the power of Cong. to decide on them.

9 G. HUNT, WRITINGS OF JAMES MADISON 515 (1910).

In reality, the President often has substantially longer than ten days to consider a bill and to decide upon his action, since he has the opportunity to analyze the measure during the course of its consideration and passage by Congress.

[37] *But see* note 97 *infra*.

[38] *But see* text accompanying note 94 *infra*.

[39] *See* 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 888 (1st ed. 1833); *Pocket Veto Hearings, supra* note 4, at 7 (views of Prof. Arthur Miller); Miller, *Congressional Power to Define the Presidential Pocket Veto Power*, 25 VAND. L. REV. 557 (1972); Note, *The Presidential Veto Power: A Shallow Pocket*, 70 MICH. L. REV. 148 (1971); Comment, *The Veto of S. 3418: More Congressional Power in the President's Pocket?*, 22 CATH. U.L. REV. 385 (1973); Comment, *The Veto Power and Kennedy v. Sampson: Burning a Hole in the President's Pocket*, 69 NW. U.L. REV. 587 (1974).

[40] *See* notes 10–15 *supra* and accompanying text.

[41] 279 U.S. 655 (1929).

[42] Technically, the adjournment was an intrasession adjournment. The Senate adjourned from July 3, 1926, until a date in November, when it was to meet as a court of impeachment. For practical purposes, however, the adjournment was intersession and was so treated by the Supreme Court and the parties to the case. 279 U.S. at 672 & nn.1–2. *See also* Wright v. United States, 302 U.S. 583, 593 (1938). In any event, since the House had adjourned *sine die*, it would have been impossible for that session of Congress to override a normal veto.

[43] 66 Ct. Cl. 26 (1928). At the time, this litigation was regarded as a test case that would also determine the status of the controversial Morin-Norris Bill, S. J. Res. 46, 70th Cong., 1st Sess. (1928), establishing a public power and flood control project at Muscle Shoals on the Tennessee River. The bill had been pocket vetoed by President Coolidge in June, 1928. The Court of Claims had decided *The Pocket Veto Case* in April of that year, and the Supreme Court granted certiorari the following January, 278 U.S. 597 (1929). In December, 1928, President Coolidge transmitted to Congress a document entitled *A Memorandum Prepared at the Office of the Attorney General Regarding Bills Presented to the President Less than 10 Days Before the Adjournment of Congress and Not Signed by Him*. H.R. Doc. No. 493, 70th Cong. 2d Sess. (1928), *reprinted in Pocket Veto Hearings, supra* note 4, at 131. The document listed numerous examples of pocket vetoes at the end of sessions of Congress. A similar Muscle Shoals bill was passed again by Congress in 1931. President Hoover chose to disapprove it by a normal veto on March 3, 1931, even though he could have waited a day and pocket vetoed it. In 1933, Congress passed the bill as part of the Tennessee Valley Authority Act, 16 U.S.C. § 831 (1933), and President Roosevelt signed it into law.

[44] 279 U.S. at 691–92.

[45] *Id.* at 680–81.

[46] *Id.* at 680–87. In disapproving the argument that the bill could have been returned to an officer or agent of a house of Congress, the Court also relied on the fact that Congress had not enacted a statute authorizing such a procedure, nor were there any rules of Congress granting such authorization. *Id. But see* Wright v. United States, 302 U.S. 583 (1938), discussed at notes 49–70 *infra* and accompanying text, in which the Court upheld the regular veto of a bill returned to an agent of the House of Representatives during an adjournment, even though the House had not authorized the agent to receive the bill. In recent years, it has become routine procedure for both houses of Congress to authorize officers to receive messages from the President during brief adjournments. *See, e.g.*, 116 CONG. REC. 43221 (1970).

[47] 279 U.S. at 684.

[48] In the case before the Court, the First Session of the Sixty-Ninth Congress had adjourned on July 3, 1926, and the Second Session had convened on December 6, 1926, an interval of five months. *Id.* at 672 & n.l.

[49] 302 U.S. 583 (1938).

[50] *Id.* at 585–86.

[51] Brief for Petitioner at 5–6, Wright v. United States, 302 U.S. 583 (1938). *See* note 46 *supra* & note 70 *infra* and accompanying text.

[52] Brief for Petitioner, *supra* note 51, at 6–13.

[53] Brief for the United States at 9–10, Wright v. United States, 302 U.S. 583 (1938).

[54] *Id.* at 14.

[55] *Id.* This position, at least in the absence of specific authorization of an agent by the adjourning house, was accepted by the two concurring Justices. *See* note 59 *infra*. More than three decades later, the purported pocket vetoes of the Family Practice of Medicine Act and other bills indicated that the executive branch again was asserting a position virtually as extreme as its argument in *Wright*. *See* text accompanying notes 71–74 *infra*.

[56] Hughes had not been a member of the Supreme Court at the time of the decision in *The Pocket Veto Case*. However, as private counsel to the American Cyanamid Company, he had been active in support of the private operation of the Muscle Shoals facilities and had helped to prepare legislation to turn the facilities over to the company. 72 CON. REC. 3584 (1930) (remarks of Senator Norris during debate on the confirmation of Hughes as Chief Justice). Subsequently, as Chief Justice, Hughes authored the opinion of the Court upholding the validity of the public operation of the Muscle Shoals facilities by the TVA, Ashwander v. TVA, 297 U.S. 288 (1936). *See also* Freund, *Charles Hughes as Chief Justice*, 81 HARV. L. REV. 4, 10 (1967).

[57] 302 U.S. at 587.

[58] *See* note 46 *supra* & note 70 *infra*.

[59] 302 U.S. at 589–90. Justice Stone, in an opinion joined by Justice Brandeis, concurred in the result but disagreed with the majority's holding that the bill had been properly returned to the Senate and that a pocket veto was unavailable. He argued that the Senate, by adjourning without authorizing an agent to receive bills returned by the President, had prevented the return of the bill within the meaning of the pocket veto clause. *Id.* at 601 (Stone, J., concurring). Justice Cardozo did not participate in the decision.

[60] *See, e.g.*, NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937) (distinguishing Carter v. Carter Coal Co., 298 U.S. 238 U.S. 238 (1936) and other cases, and sustaining the National Labor Relations Act of 1935 as a proper exercise by Congress of its constitutional power to regulate commerce between the states); Kentucky Whip & Collar Co. v. Illinois Cent. R.R., 299 U.S. 334 (1937) (distinguishing Hammer v. Dagenhart, 247 U.S. 251 (1918), and sustaining a federal law prohibiting shipment of convict-made goods in interstate commerce in certain circumstances); Texas & N.O.R.R. v. Brotherhood of Ry. & S.S. Clerks, 281 U.S. 548 (1930) (distinguishing Coppage v. Kansas, 236 U.S. 1 (1915), and Adair v. United States, 208 U.S. 161 (1908), and sustaining the Railway Labor Act of 1926 and its provisions dealing with collective bargaining under the commerce clause). *See also* Freund, *supra* note 56, at 35–37.

[61] Since the bill is to be returned to the same "House" [in which it originated], and none other, . . . it follows, in our opinion, that under the constitutional mandate it is to be returned to the "House" when sitting in an organized capacity for the transaction of business, and having authority to receive the return, enter the President's objections on its journal, and proceed to reconsider the bill; and that no return can be made to the House when it is not in session as a collective body and its members are dispersed.

The Pocket Veto Case, 279 U.S. 655, 682–83 (1929).

[62] 302 U.S. at 589–90. To emphasize his disagreement with the declaration of *The Pocket Veto Case* that the transmission of a bill to an agent of Congress is not effective, the Chief Justice quoted—approvingly and extensively—from the unsuccessful argument of Congressman Hatton W. Sumners in that case. *Id.* at 590–92. As amicus curiae on behalf of the House Judiciary Committee, Mr. Sumners had urged that the pocket veto clause permits the houses of Congress to receive veto messages from the President through agents, and he discussed at length the practical factors in favor of such a result. By drawing upon agency principles to find the return of a bill valid, the *Wright* Court generously vindicated his arguments. As Chief Justice Hughes concluded:

The fact that Mr. Sumners' contention in the *Pocket Veto Case* was unavailing with respect to the effect of an adjournment of the Congress at the close of its first regular session, in no way detracts from the pertinence and cogency of these observations as addressed to the situation which is now presented.

Id. at 593.

Justice Stone agreed, but thought the Court should have explicitly overruled *The Pocket Veto Case*. 302 U.S. at 603–04 (Stone, J., concurring); *see* note 59 *supra*.

[63] 302 U.S. at 595–96.

[64] *See* note 61 *supra*.

[65] 302 U.S. at 594.

[66] *Id.* at 595.

[67] Hughes had also cited the length of the adjournment as one distinction between *Wright* and the *Pocket Veto Case*. *See* note 63 *supra* and accompanying text.

[68] 302 U.S. at 598.

[69] *See* text accompanying note 66 *supra*.

[70] *Wright* apparently does not even require that the Congress formally authorize its agent to receive veto messages, since the Secretary of the Senate had no express authorization in that case. *See* 302 U.S. at 598 (Stone, J., concurring); note 46 *supra*. *But see* Kennedy v. Sampson, 511 F.2d 430, 437 (D.C. Cir. 1974) (emphasizing the need for Congress to make "appropriate arrangements" for receipt of veto messages).

[71] S. 3418, 91st Cong., 2d Sess. (1970). The bill authorized the appropriation of $225 million for fiscal years 1971–73 for grants by the Secretary of HEW to hospitals and medical schools to train family physicians. It passed the Senate by a vote of 64–1. 116 CONG. REC. 31508 (1970). The House passed a companion bill, H.R. 19599, 91st Cong., 2d Sess. (1970), by a vote of 346–2. 116 CONG. REC. 39379–80 (1970).

[72] *Public Papers of the Presidents, Richard Nixon, 1970* at 1156 (1971). The President's ten-day period for acting on the bill expired on December 25, 1970.

[73] *See* note 12 *supra*.

[74] *See* note 13 *supra*.

[75] *See Pocket Veto Hearings, supra* note 4. Wishing to test the pocket veto, Congress appropriated a token $100,000 to carry out the program authorized by the legislation. Supplemental Appropriations Act of 1972, Pub. L. No. 92–184 ch. 3, 85 Stat. 627, 631 (1971). The Secretary of HEW declined to spend the funds, on the ground that the Family Practice of Medicine Act had been pocket vetoed. *Cf.* Larson v. Garlock, Civil Action No. 1410–71 (D.D.C., filed July 15, 1971) (challenge to the pocket veto of H.R. 3571, 91st Cong., 1st Sess. (1969), a private relief bill also pocket vetoed during the 1970 Christmas adjournment; complaint dismissed on May 26, 1972 by stipulation of the parties on grounds unrelated to the pocket veto issue). *See also* Comment, 22 CATH. U.L. REV., *supra* note 39, at 394–97.

[76] The two defendants were the Acting Administrator of General Services and the Chief of White House Records. Part of the relief sought in the complaint was an order requiring the defendants to publish S. 3418 in slip form and in the *Statutes at Large* as a law of the United States pursuant to 1 U.S.C. §§ 106a, 112, 113 (1970).

[77] 364 F. Supp. 1075 (D.D.C. 1973).

[78] 511 F.2d 430 (D.C. Cir. 1974). The court of appeals agreed with the district court that I had standing to sue because the object of the suit was to vindicate the effectiveness of my vote as a United States Senator. *Id.* at 433–36; *see* Coleman v. Miller, 307 U.S. 433 (1939). After the judgment of the court of appeals became final, the bill was published as a law of the United States, Pub. L. No. 91–696, 84 Stat. 2080–1 to 2080–5 (1970).

[79] 511 F.2d at 442.

[80] *Id.* at 436–42. *See* text accompanying note 62 *supra*.

[81] *See* text accompanying notes 47–48 *supra*.

[82] 511 F.2d at 440–41.

[83] *Id.* at 441–42.

[84] *Id.* at 441.

[85] H.R. 10511, 93d Cong., 1st Sess. (1973).

[86] H.R. 14225, 93d Cong., 2d Sess. (1974).

[87] 412 F. Supp. 353 (D.D.C. 1976).

[88] The court held, citing *Kennedy* v. *Sampson*, that I had standing to sue. 412 F. Supp. at 355; *see* note 78 *supra*. Also, the court ruled that, although Congress had passed and the President had signed at a later date bills essentially identical to those vetoed, the case was not moot, inasmuch as the defendants had refused to publish the vetoed bills as laws. 412 F. Supp. at 356.

[89] 412 F. Supp. at 356; 122 CONG. REC. S. 5912 (1976) (daily ed.). The bills in question were published as laws of the United States, Pub. L. No. 93–650, 89 Stat. 2–1 (H.R. 10511); Pub. L. No. 93–651, 89 Stat. 2–3 (H.R. 14225).

[90] *See* text accompanying note 94 *infra*.

[91] Nevertheless, *Sampson* and *Jones* are formidable barriers to an executive attempting to reassert the intrasession and intersession pocket veto power. The executive branch failed to ask the Supreme Court to review *Sampson*, despite the holding of that case that *any* intrasession pocket veto was unconstitutional. In *Jones*, the government's agreement to adverse summary judgment is a strong indication that the government was conceding the substantive issues in the case, thereby acquiescing to a ruling that drastically curtailed *The Pocket Veto Case*.

[92] *See* note 71 *supra*. In the case of the aid-to-the-handicapped bill, *see* note 86 *supra*, the President returned the bill to veto. 120 CONG. REC. 36621–22 36882 (1974). The Ford Administration claimed, however, that notwithstanding the return of the bill, and notwithstanding *Sampson*, the measure had been pocket vetoed. The return of the bill was probably a back-up strategy anticipating a court challenge to the pocket veto. If Congress had not overridden the veto, the pocket veto issue might well have been moot, since the bill could not have become law. The government was a victim of its own strategy; it was making the awkward claim that the adjournment of Congress had prevented the return of the bill even though the bill had in fact been returned to Congress.

[93] *See* text accompanying notes 18–34 *supra*.

[94] The figures refer to the Ninety-Fourth, Ninety-Third, Ninety-Second, and Ninety-First Congresses, respectively. CONG. DIR., 94th Cong., 2d Sess. 404–10 (1976).

[95] In fact, the first recorded use of a pocket veto was to disapprove a bill during the intersession adjournment of the first session of a Congress. *See* H.R. 170, 12th Cong., 1st Sess.; 25 ANNALS OF CONG. 17 (1812) (Message of President Madison to the Second Session, explaining his objections).

[96] 5 HINDS' PRECEDENTS 873 (1907); Senate Rule XXXII; House Rule XXVI.

[97] The reduction in the length of the final adjournments of Congress is also substantial—from the customary nine months in the early years to approximately two months today. *See* CONG. DIR., 2d Sess. 404–10 (1976). Nothing in the Constitutional Convention records necessarily indicates a concern to prevent a new Congress from voting to override the veto of a bill passed by the preceding Congress. In light of the nature of a final adjournment of a Congress, however, and the still relatively long duration—two months—of that adjournment, it seems unlikely that a court would overturn the longstanding executive utilization of the pocket veto power during such adjournments. But it is not difficult to imagine that, were he reviewing Documents IX today, John Rutledge would have let James Wilson's version stand, and there would be no pocket veto clause in the Constitution.

[98] *See* Wright v. United States, 302 U.S. 583, 597 (1938).

THE B–1 BOMBER

Mr. HEINZ. Mr. President, July 18, I voted with a large majority of my colleagues to delete funding in the DOD appropriations bill for full-scale production of the B–1 bomber. A word is in order about this important Senate decision.

The amendment came recommended not only by the President, but by the Senate Armed Services Committee as well. Nevertheless, I was willing to support such an action only on the condition that enough money was still retained—$442 million as it happened—to continue whatever research and development is necessary for keeping abreast of technology in case unforseen events convince us to reverse our course. When it comes to national security, our bets should be hedged.

The case for going ahead with actual B–1 production at this point, however, just is not as compelling. Even proponents of the B–1 admit that the B–52, in the modern G and H series, as well as the FB–11, are competent to perform a strategic bombing mission well into the

1980's. It is my understanding, in fact, that DOD was intending to keep the B–52 in service even after deploying the B–1.

The argument that costs will increase the longer we wait to produce the B–1 may be penny-wise, but it may also be pound-foolish. We will be in for much greater costs if we go full steam now only to find our system obsolete in a few years. Since a B–1 produced now would overlap for many years with a still quite adequate B–52, it seems prudent to defer production and deployment decisions while technology continues to change rapidly on both the Soviet side and our own.

It is very possible that the Soviets by the 1980's or at least the 1990's will have developed modern AWACS—airborne warning and control systems—or improved surface-to-air missiles which would render our B–1 ineffective. But even if they do not achieve such exotic, though plausible, new defenses, a modernized B–52 can be counted on to penetrate Soviet air space, even if it does not do so in as fancy a fashion as the B–1. The B–52 can be equipped with quick start accessories to assure prelaunch survivability, electro-optical viewing systems for improved low-altitude performance, as well as armed decoys, certain new electronic countermeasures, and SRAMS—short range attack missiles.

Moreover, the B–52 can be refitted to perform as a standoff bomber as well as a penetration bomber. As such, it could stop short of the Soviet border and fire remarkably versatile and accurate cruise missiles. These missiles, descendants of the German buzz bombs of World War II, are in effect small, pilotless jet planes which can be launched at 40,000 feet, travel up to 550 miles an hour even after descending to 50-foot treetop level, deliver a 200 kiloton nuclear warhead—the bomb dropped on Hiroshima was only 15 kilotons—and strike within 100 feet of target—having been launched from 700 to 1,700 miles away. To boot, they are relatively inexpensive.

The B–52 can be equipped with eight cruise missiles in its bomb bay and six on either of its wings; the B–1's carrying capacity is much more limited. Not surprisingly, at the same time the administration cancelled the B–1 program, it ordered the air-launched cruise missile program speeded up by 3 years, to permit full deployment by 1983.

So though there might still be something of a difference in the performance of a B–1 and that of a B–52, the essential issue is whether it is worth the enormous difference in cost. It is not enough that the B–1 represents an impressive feat of modern technology. Trying to balance the budget as we are, it has to be shown truly important to our defense—and something for which there is not a more cost-effective substitute. The B–52 and the cruise missile are good alternatives.

NINE YEARS AGO ON AUGUST 21

Mr. BAYH. Mr. President, I want to take this opportunity today to observe with sadness the ninth anniversary of the Soviet invasion and occupation of Czechoslovakia. The Senate will not be in session on August 21, but I am sure my colleagues will recall with painful vividness the shock of that late summer day in 1968. American citizens of Czech, Slovak, and Subcarpatho-Ruthenian descent will once again affirm the independence and yearning for liberty that are such inherent characteristics of the brave people of Czechoslovakia in their own observance of this tragic anniversary.

Earlier this year, we witnessed the brutal repression by the Government in Prague against the "Charter 77" human rights movement. These brave citizens are attempting to give substance to the pledge of the Czechoslovak Socialist Republic to honor its commitment to enhancing political liberty in conformity with the Helsinki Final Act, the International Covenant on Civil and Political Rights. And the International Covenant on Economic, Social, and Cultural Rights.

To the extent that we praise the gallantry and spirit of "Charter 77," we must also wonder what Czechoslovakia would have been like today had the liberalizing reforms of the Prague Spring been allowed to occur without the interference in the internal affairs of the Dubcek government. Had the Prague Spring been allowed to bloom, true detente may then have flourished in terms the people of the world could understand and support. However, the wave of repression that gripped the people of Czechoslovakia after the invasion by the U.S.S.R. has been partially broken by the bravery of those who dare to peacefully express firm faith in the political ideals shared by free men everywhere. As a free people it is essential that we recognize and pay tribute to the courage of those who endure the wrongs of political oppression in order to speak the truth. This is why we note this solemn occasion.

Whether we recall the sacrifices of Jan Hus or Jan Palach, the message of our remembrance of August 21, 1968, is clear: The desire for freedom can never be extinguished through an ideology imposed by tanks and maintained because of a fear of competing ideas. It will prevail as long as free people everywhere do not become indifferent or unaware of the magnitude of the sacrifice and difficulty of the conditions which we witness today in Czechoslovakia.

LET FREEDOM RING

Mr. McCLURE. Mr. President, on May 1, 1977, more than 3,500 members of the Independent Order of Odd Fellows observed their 44th pilgrimage to the Tomb of the Unknown Soldier. They came from all over the United States and Canada to participate in this moving ceremony, during which 81 wreaths were placed on the tomb by members of the Odd Fellows and Rebekahs.

Mr. Jack O. Morrow, of Boise, is currently the sovereign grand master of the Odd Fellows. It was his honor to give the main address on this occasion. Aptly titled "Let Freedom Ring," Mr. Morrow's words do indeed ring with the fervor of patriotism and the principles which characterize Odd Fellowship—friendship, love, truth, faith, hope, charity, and universal justice.

I want to share Mr. Morrow's address with my colleagues, so I ask unanimous consent that it be printed in the RECORD.

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

LET FREEDOM RING

(By Jack O. Morrow)

From the time that the Pilgrims set sail across the unknown vastness of the Atlantic and landed at Plymouth Rock to the time that the Astronauts circled the unknown spaciousness of the moon, freedom has been a beacon light. From our earliest heroes who explored unknown lands to our modern pioneers who searched unknown space, the American dream has been for freedom; and the vision for tomorrow is freedom.

It is today that we reaffirm our faith and rededicate the principles of Friendship, Love, and Truth to the cause of freedom. We honor those fighting men around the world who sacrificed their lives, their "all."

We pay homage to the American Patriots who fought in the Revolutionary War. When the church bells rang and the drums beat after the midnight ride of Paul Revere in 1775, they heard the "call to arms." The struggle was long and hard—Lexington, Concord, Bunker Hill, Valley Forge—and, finally, victory at Yorktown in 1781.

In spite of defeat, poverty, tears, and starvation, the Patriots stood together and left to their descendants a nation with freedom. This is their heritage to us: Declaration of Independence—"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

We pay homage to the Civil War men who fought a bitter conflict. They answered their leader's call for volunteers after the early morning firing on Fort Sumter in 1861. Families were torn apart with brothers, fathers, sons, friends, and neighbors fighting for the Blue or Gray. It was a destructive, horrible conflict—Bull Run, Merrimac and Monitor, Vicksburg, Gettysburg—and, at long last, peace at Appomattox in 1865.

When the fighting had ended, the men of Blue and Gray became united in the cause of freedom. This is their heritage to us: Gettysburg Address—"That this nation shall have a new birth of freedom; and that this government of the people, by the people, and for the people shall not perish from the earth."

We pay tribute to the Unknown Soldier of World War I who represents the Americans that fought "Over There" and brought new hope to our Allies after Congress was forced to declare war in 1917—Lusitania, Chateau-Thierry, Belleau Wood, Argonne Forest—and, then, an Armistice in 1918.

The first World War had new and improved weapons that made warfare more dangerous and deadly—aircraft, flame throwers, submarines, mechanized equipment, and trench combat. World War I was a "war to end wars," and "to make the world safe for democracy."

Initial action was taken in the development of a International Organization, and the fighting "Yanks" made our nation one of the most powerful on earth. This is their heritage to us: League of Nations—"To promote international cooperation and to achieve peace and security among the nations of the world."

There was no peace! Within a span of twenty-three years, the United States was at war again! World War II grew out of the grievances that were not settled from World War I.

No American can ever forget Pearl Harbor on December 7, 1941—a day of infamy!

We pay tribute to the Unknown Soldier of World War II who represents the Service Men that fought in the most terrible and costliest war in all history—Bataan, North Africa "D-Day," Hiroshima—and, at last, "V-J Day" in 1945.

Modern warfare had no equal—the Atomic Bomb had many times the destructive power of any weapon in the history of the world. The soldier, airmen, sailor, and marine answered their country's call in the cause of freedom. This is their heritage to us: Four Freedoms—"We seek to make secure, everywhere in the world, freedom of speech and expression, freedom for everyone to workship God in his own way, freedom from want, and freedom from fear."

We honor the Unknown Soldier of the Korean War who represents the fighting men that were sent across the sea in 1950 when a conflict between political ideologies led to war. The Korean War demonstrated the capability of a World Organization to take military action in an emergency.

Another struggle against Communism broke into open warfare in Vietnam in 1965. Once again, our armed forces fought in the defense of free people who were being deprived of their liberty. Many Americans lost their lives in Korea and Vietnam because they fought to bring freedom to oppressed people who were terrorized with brutality and fear.

We honor the fighting Americans of other wars—War of 1812, Mexican War, Indian Campaigns, Spanish American War, and Philippine Insurrection. They, too, "sleep in peace" in Arlington National Cemetery, Flanders Field, National Cemetery of the Pacific, and unknown cemeteries around the world. Their fight in the cause of freedom is over, but the heritage they left us "lives on."

We, the American people, must hold fast to the faith that our fighting men have entrusted to us. We dare not allow their fight for our freedom to be taken away from us. We must be vigilant!

It is for all members of the Independent Order of Odd Fellows to rededicate themselves to live together in peace and to hold high the ideals for which our "Honored Men" so nobly fought. We have no other choice! The supreme sacrifice of their lives in the cause of freedom is a command for all of us throughout the world to uphold the principles for which they died—Friendship, Love, Truth, Faith, Hope, Charity, and Universal Justice. We must continue to work for the Law of Universal Brotherhood that will bind all nations together in freedom and for the solution of any disagreements in the conference room, not on the battlefield.

May our visions of 1977 fulfill their dreams!

Today we honor all the fighting men represented by the Unknown Soldier—"Known Only to God."

They gave their lives, their all
And answered their country's call.
They held high the beacon light
As the eternal flame of freedom's right.

Together we achieve unlimited visions! Let freedom ring!

THE CLEAN WATER ACT OF 1977

Mr. CHAFEE. Mr. President, is it my understanding that tomorrow we will consider S. 1952, the Clean Water Act of 1977. There has been considerable interest in how the Committee on Environment and Public Works has addressed the subject of the permit program for dredged and fill material. Much information and guesswork about the committee bill and the Bentsen-Tower amendment regarding this permit program has circulated throughout these Chambers.

I hope the factsheet, prepared by the committee staff, will help clarify the situation. The committee has been able to resolve many of the legitimate concerns that were brought to our attention, while at the same time maintaining vital wetlands protection.

Mr. President, I ask unanimous consent that this material be printed in the RECORD.

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

FACT SHEET

COMMITTEE AMENDMENTS TO SECTION 404 OF THE FEDERAL WATER POLLUTION CONTROL ACT

Question

What is the basic difference between the Committee bill and the Bentsen-Tower Amendment?

Answer

The Bentsen-Tower Amendment eliminates protection for 98 percent of the Nation's stream miles and removes protection from 80 to 85 percent of the Nation's valuable swamps and marshes.

The Committee bill continues the jurisdiction of the Federal Water Pollution Control Act which is essential to control pollution at its source. The Committee Amendment assures continued protection of all the Nation's waters by encouraging State and local government to assume the primary responsibility for protecting waters outside the traditional "Phase I" jurisdiction of the Corps of Engineers, and by providing for recognition of existing non-permit regulatory authority for those activities for which permit regulation is administratively inappropriate.

Question

What protections are afforded under these proposals for the nation's vitally important coastal wetlands?

Answer

The Bentsen-Tower Amendment limits jurisdiction for an enforceable program to the mean high water mark in coastal wetlands. Since approximately one half of most coastal marshes lie above the mean high water mark, the Corps and EPA would have no legal recourse to require permits or enforce permits in these adjacent wetlands, according to the legal analysis of Department of Justice and General Counsels for Army and EPA.

The Committee bill retains jurisdiction over all coastal wetlands. During the last two years, the current program effectively conserved thousands of acres of coastal wetlands by inducing modifications in several thousand permitted projects.

Question

Would the Bentsen-Tower Amendment provide protection for other important wetlands?

Answer

No. Under the Bentsen-Tower Amendment, the Corps would not have legal authority to require or enforce permits in wetlands above the "ordinary high water mark" along traditionally navigable waters, or in any of the wetlands located along the tributaries to these waters.

Question

Would the Bentsen-Tower Amendment impair the authority of the Federal Government to regulate the dumping of *toxic* fill in the nation's waters?

Answer

Yes. The Bentsen-Tower Amendment would virtually eliminate the government's ability to control the discharge of dredged or fill material contaminated with toxic materials. Section 307 referenced by the Amendment only provides a mechanism for identifying toxic pollutants and setting standards for such pollutants. This information is virtually impossibe to implement without the permit program which the amendment would completely dismantle.

Even if toxic standards could be implemented under the Bentsen-Tower approach, the amendment prohibits the applicability of toxics standards for the discharges that are specifically exempted—no matter how contaminated such materials may be.

The Committee bill continues the current program which is effectively locating environmentally sound disposal sites for contaminated materials.

Question

How would the 404 permit program be administered under the Bentsen-Tower Amendment and under the Commission Bill?

Answer

Under the Bentsen-Tower Amendment the 404 permit program would not be administered except in 2 percent of the stream miles and in 15 to 20 percent of the nation's wetlands. The amendment provides no incentive for states to develop their own comprehensive programs. Moreover, the remnants of the existing program that would survive the Bentsen-Tower amendment could be split jurisdictionally between the States and the Corps in a manner that assures administrative overlap. Thus, a citizen seeking permits for a causeway across a coastal marsh would be forced to obtain a state permit for half the causeway and a Corps permit for the other half of the road.

The Committee bill encourages states to assume full permitting responsibility in all lakes, rivers, streams and wetlands except those that have been regulated by the Corps since 1899. The bill provides statutory program criteria to insure that EPA must approve adequate state programs. EPA may object to the issuance of state permits "only where such permit is clearly outside the guidelines and requirements" of the bill. The Corps may object to permits that will impair navigation. Under the Tower-Bentsen Amendment the Corps and EPA are prohibited from protecting the national interest in navigation or the clean water if the harmful discharge occurs outside those relatively few waters that support ship traffic.

Question

Is the current Corps program manageable and would it be able to continue in all three phases until states are able to assume responsibility for administering the program?

Answer

The current program is manageable.

Only 4,444 permit applications have been received for waters in the "expanded" jurisdiction in the 24 months since the program went into effect.

On July 19, 1977, the Corps issued nationwide general permits covering:

Discharges in regular flowing streams with average annual flow less than 5 cfs.

Discharges in irregular flowing streams with median flow less than 5 cfs over 50% of year.

Discharges into lakes less than 10 acres.

Maintenance and emergency reconstruction of existing fills.

Backfill for utility line crossings.

Small roadfills in nontidal waters (covers 98% of such roads nationwide).

Backfill for bridges and causeways.

Property protection to prevent erosion.

The Corps has issued 87 general permits and is processing 136 additional general permits.

Only 16 of the permit issuances have required environmental impact statements under NEPA.

New Corps regulations streamline procedures and delegate most decision-making responsibility to its field offices.

The Committee amendment will require the Secretary of the Army to enter into procedural memoranda of understanding to expedite the processing of applications and

avoid delays often experienced when other federal agencies, including the Fish and Wildlife Service, become involved in the review of permit applications.

Question

How does the Committee proposal handle minor agricultural drainage?

Answer

First, the Committee's program does not apply to any drainage activities which occur in upland areas. The Committee amendment also specifically exempts the construction and maintenance of agricultural irrigation ditches and the maintenance of agricultural drainage ditches. For instance, if the drainage is being constructed in field already in agricultural use for crops such as soybeans or corn the drainage activity would not be subject to any permit under the provisions of the Committee bill.

Question

What types of farming and forestry practices are exempt from permit requirements under the Committee Bill?

Answer

Normal farming and forestry activities such as plowing, seeding, harvesting and cultivating

Minor drainage

Upland soil and water conservation practices

Maintenance and emergency reconstruction of existing fills such as dikes, dams, and levees

Construction and maintenance of farm or stock ponds and irrigation ditches

Maintenance of drainage ditches

Construction and maintenance of farm and forest roads

Placement of dredged and fill material from farming and forestry practices which the state chooses to regulate by best management practices.

Question

What do these exemptions mean for the farming and forestry industry? What are some examples?

Answer

The Committee bill would make it clear that a farmer does not need a permit to rotate lands in agriculture use from one crop to another. For example, a field of alfalfa could be converted into a row crop without applying for a permit.

The Committee bill would make it clear that a farmer does not need a permit to tile line a field in intensive agricultural use to enhance drainage.

The Committee bill would assure that important upland erosion control practices will continue to be used by farmers and ranchers to conserve their water and soil resources without having to get a permit.

The Committee's amendment would ensure that log road access to the valuable timber products of our nation's forests would not be delayed by requirements to obtain permits.

The Committee's amendment would allow farmers to construct and maintain irrigation ditches essential to deliver water for growing their crops without the need for permits. This will be of particular significance to those areas of the country ravaged by the recent drought.

COMPARISON

1. Waters Covered:

Current program.—All waters of the United States, including: Phase I, navigable waters of the United States, including adjacent wetlands; Phase II, primary tributaries, lakes, and adjacent wetlands; and Phase III, tributaries and other waters.

Committee bill.—All waters of the United States, including: Phase I, navigable waters of the United States, including adjacent wetlands: Phase II, primary tributaries, lakes, and adjacent wetlands; and Phase III, tributaries and other waters.

Bentsen bill.—Phase I waters, less historically navigable waters, and adjacent wetlands and Phases II and III are excluded but may be included upon petition by States.

2. Percentage of waters Protected:

Current program.—Rivers and streams, 100%; and Wetlands, 100%.

Committee bill.—Rivers and streams, 100%; and Wetlands, 100%.

Bentsen bill.—Rivers and streams, 2%; and Wetlands, 15%.

3. Federal Permit Issues:

Current program.—Corps of Engineers.

Committee bill.—Corps of Engineers.

Bentsen bill.—Corps of Engineers.

4. 1899 Act:

Current program.—Retained.

Committee bill.—Retained.

Bentsen bill.—Retained in waters presently used or susceptible to use for navigation and adjacent wetlands; Excludes historically navigable waters; Excludes activities in nonnavigable waters which could affect navigation or navigable capacity of navigable waters.

5. Specific Permit Exemption: Plowing, seeding, harvesting and cultivating:

Current program.—Exempted.

Committee bill.—Exempted.

Bentsen bill.—Exempted.

Minor drainage:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Upland soil and water conservation practices:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Maintenance and emergency reconstruction of existing fills.

Current program.—Exempted.

Committee bill.—Exempted.

Bentsen bill.—Exempted.

Construction and maintenance of farm or stock ponds and irrigation ditches:

Current program.—Large number permitted through nationwide permit.

Committee bill.—Exempted.

Bentsen bill.—Exempted.

Maintenance of drainage ditches:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Construction of temporary sedimentation basins on construction sites:

Current program.—Not exempted.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Construction and maintenance of farm and forest roads.

Current program.—About 98% are permitted by nationwide permit.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Construction and maintenance of temporary mining roads:

Current programs.—About 98% are permitted by nationwide permit.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

Backfill for utility line crossings.

Current program.—Already permitted by nationwide permit.

Committee bill.—No, but can be permitted by nationwide permit.

Bentsen bill.—Not exempted.

Small erosion control activities:

Current program.—Already permitted by nationwide permit.

Committee bill.—No, but can be permitted by nationwide permit.

Bentsen bill.—Not exempted.

Fill incidental to causeway construction in tidal waters:

Current program.—Already permitted by nationwide permit.

Committee bill.—No, but can be permitted by nationwide permit.

Bentsen bill.—Not exempted.

Placement of dredged or fill material from agriculture, mining, and construction "gray area" practices if State adopts best management practices:

Current program.—Some are subject to nationwide permits.

Committee bill.—Exempted.

Bentsen bill.—Not exempted.

6. Delegation to States:

Current program.—No delegation.

Committee bill.—Phase I, no delegation; Phases II and III, EPA can delegate.

Bentsen bill.—Phase I, Corps can delegate some wetlands adjacent to Phase I waters; delegation of the remainder of Phase I not allowed. Phases II and III, exempt from program.

7. Flexibility in Manner and Implementation of State Delegated Program:

Current program.—No delegation.

Committee bill.— Does not require a new Federal delegation program administered by a different agency. Delegation can be to NPDES agency, or to separate agency already in existence; implementation can include variety of mechanisms adaptable to local conditions.

Bentsen bill.—Requires a new Federal delegation program. No statutory guidance on form or manner of delegation.

8. Federal Item Veto over State Issuance:

Current program.—Not applicable (delegation not authorized).

Committee bill.—Corps retains Phase I and navigation veto in Phases II and III; EPA retains water quality veto in Phases I, II, and III under strict burden of proof.

Bentsen bill.—Corps loses naviation veto in Phases II and III (and historically navigable waters); EPA loses water quality veto in Phases II and III (and historically navigable waters).

9. Control of Toxic Substances:

Current program.—All activities must meet the substantive requirements of Section 307, including those subject to nationwide permits.

Committee bill.—All activities must meet the substantive requirements of Section 307, including activities exempt from permits.

Bentsen bill.—Exempted activities do not have to meet substantive requirements of Section 307. Nonexempted activities must meet substantive requirements of Section 307, but no permit review avail. for implementation.

10. General or Nationwide Permits:

Current program.—Authorizes use of general or nationwide permits.

Committee bill.—Authorizes use of general or nationwide permits, with specified guidelines.

Bentsen bill.—Author. use of genl. permits.

11. Federal Projects:

Current program.—Not exempted.

Committee bill.—Not exempted.

Bentsen bill.—Exempted if authorized by Congress and an envl. impact statement is submitted.

RECENT SENATE ELECTIONS—STATISTICS ON VOTING BY CANDIDATE AND PARTY

Mr. KENNEDY. Mr. President, in connection with the current debate on public financing of elections, I believe it would be helpful, in considering the application of the bill to Senate races, to make available in the RECORD some statistics on recent Senate elections, going back to 1968, showing the election results by candidate and party. The statistics are compiled from Congressional Quarterly and the Biennial Reports of the Clerk of the House of Representatives, and I ask unanimous consent that they may be printed in the RECORD.

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

RECENT SENATE ELECTIONS—STATISTICS ON VOTING BY CANDIDATE AND PARTY

ABBREVIATIONS FOR PARTY DESIGNATIONS

A—American.
AIP—American Independent.
B—Buffalo.
C—Conservative.
COM—Communist.
CP—Consumer.
CRG—Courage.
CST—Constitutional.
CVV—Concerned Voters Voice.
D—Democratic.
DFL—Democratic-Farmer-Labor.
DI—Dodd Independent.
DS—Democratic Socialist.
FP—Freedom and Peace.
GWP—George Wallace.
HR—Human Rights.
IA—Independent American.
IAL—Independent Alliance.
IG—Industrial Government.
IND—Independent.
IV—Independent Vermonters.
L—Liberal.
LIB—Libertarian.
LP—Labor.
LRU—La Raza Unida.
LU—Liberty Union.
N—New.
NC—National Conservative.
ND—National Democratic.
NDPA—National Democratic Party of Alabama.
NP—Nonpartisan.
P—Prohibition.
PC—People's Constitutional.
PFP—Peace and Freedom.
PP—Peoples.
R—Republican.
SL—Socialist Labor.
SW—Socialist Workers.
TRT—Taxpayers Ticket.
USLP—United States Labor Party.

33 SENATE ELECTIONS IN 1976

	Votes	Percent
Arizona:		
Dennis DeConcini (D)	400,334	54.0
Sam Steiger (R)	321,236	43.3
Allan Norwitz (LIB)	7,310	1.0
Bob Field (IND)	10,765	1.5
William M. Feighan (IND)	1,565	.2
California:		
John V. Tunney (D)	3,502,862	46.9
S. I. Hayakawa (R)	3,748,973	50.2
David Wald (PFP)	104,383	1.4
Jack McCoy (AIP)	82,739	1.1
Omanir Musa (IND)	31,629	.4
Connecticut:		
Gloria Schaffer (D)	561,018	41.2
Lowell P. Weicker, Jr. (R)	761,683	57.7
Robert Barnabei (GWP)	14,407	1.1
Delaware:		
Thomas C. Maloney (D)	98,042	43.6
William V. Roth, Jr. (R)	125,454	55.8
Donald G. Gies (A)	646	.3
John A. Missimilla (P)	216	.1
Joseph F. McInerney (IND)	437	.2
Florida:		
Lawton Chiles (D)	1,799,518	63.0
John Grady (R)	1,057,886	37.0
Hawaii:		
Spark M. Matsunaga (D)	162,305	53.7
William Quinn (R)	122,724	40.6
Rockne Johnson (LIB)	1,404	.5
Anthony N. Hodges (PP)	14,226	4.7
James D. Kimmel (NP)	1,433	.5
Indiana:		
Vance Hartke (D)	868,522	40.2
Richard G. Lugar (R)	1,275,833	59.0
David Lee Hoagland (USLP)	2,511	.1
Don L. Lee (A)	13,564	.6
Maine:		
Edmund S. Muskie (D)	292,704	60.2
Robert A. G. Monks (R)	193,489	39.8
Maryland:		
Paul S. Sarbanes (D)	772,101	56.5
J. Glenn Beall, Jr (R)	530,439	38.8
Bruce Bradley (IND)	62,750	4.6
Massachusetts:		
Edward M. Kennedy (D)	1,726,657	69.3
Michael S. Robertson (R)	722,641	29.0
Carol Henderson Evans (SW)	26,283	1.1
H. Graham Lowry (USLP)	15,517	.6
Michigan:		
Donald W. Riegle, Jr. (D)	1,831,031	52.5
Marvin L. Esch (R)	1,635,087	46.9
Theodore G. Albert (HR)	7,281	.2
Paula L. Reimers (SW)	3,399	.1
Frank Girard (SL)	2,554	.1
Peter A. Signorelli (USLP)	2,218	.1
Bette Jane Erwin (LIB)	8,842	.3
Minnesota:		
Hubert H. Humphrey (D)	1,290,736	67.5
Jerry Brekke (R)	478,602	25.0
Bill Peterson (SW)	9,380	.5
Robin E. Miller (LIB)	5,475	.3
Matt Savola (COM)	2,214	.1
Paul Helm (A)	125,612	6.6
Mississippi:		
John H. Stennis (D)	554,432	100.0
Missouri:		
Warren E. Hearns (D)	813,571	42.5
John C. Danforth (R)	1,090,067	56.9
Lawrence (Red) Petty (IND)	10,822	.6
Montana:		
John Melcher (D)	206,232	64.2
Stanley C. Burger (R)	115,213	35.8
Nebraska:		
Edward Zorinsky (D)	313,805	52.9
John Y. McCollister (R)	279,284	47.1
Nevada:		
Howard W. Cannon (D)	127,214	63.0
David Towell (R)	63,471	31.4
Byron D. Young (IA)	3,619	1.8
Dan Becan (LIB)	2,307	1.1
Others	5,288	2.6
New Jersey:		
Harrison A. Williams, Jr. (D)	1,681,140	60.7
David F. Norcross (R)	1,054,508	38.1
Bernardo S. Doganiero (SL)	9,185	.3
Hannibal Cundari (LIB)	19,907	.7
Leif Johnson (LP)	6,650	.2
New Mexico:		
Joseph M. Montoya (D)	176,382	42.7
Harrison "Jack" Schmitt (R)	234,681	56.8
Malcolm "Matt" Dillon (AIP)	906	.2
Ernesto B. Borunda (LRU)	1,087	.3
New York:		
Daniel P. Moynihan (D)	3,328,511	48.6
Daniel P. Moynihan (L)	184,983	2.8
James L. Buckley (R)	2,525,139	37.9
James L. Buckley (C)	311,494	4.7
Marcia Gallo (SW)	16,350	.2
Elijah C. Boyd (LP)	6,716	.1
Martin E. Nixon (LIB)	10,943	.2
Herbert Aptheker (COM)	25,141	.4
Others	348,498	5.2
North Dakota:		
Quentin N. Burdick (D)	175,772	62.1
Robert Stroup (R)	103,466	36.6
Clarence Haggard (A)	3,824	1.4
Ohio:		
Howard M. Metzenbaum (D)	1,941,113	49.5
Robert Taft, Jr. (R)	1,823,774	46.5
Donald E. Babcock (A)	36,979	.9
Emma Lila Fundaburk (IND)	33,285	.9
John O'Neill (IND)	53,657	1.4
Melissa Singler (SW)	31,805	.8
Pennsylvania:		
William J. Green (D)	2,126,977	46.8
H. John Heinz III (R)	2,381,891	52.4
Andrew J. Watson (CST)	26,028	.6
Frederick W. Stanton (SW)	5,484	.1
Frank Kinces (COM)	2,097	.1
Bernard Salera (LP)	3,637	.1
Rhode Island:		
Richard P. Lorber (D)	167,665	42.0
John H. Chafee (R)	230,329	57.7
Margaret R. Cann (COM)	912	.2
Tennessee:		
James R. Sasser (D)	751,180	52.5
Bill Brock (R)	673,231	47.0
Mark Clark Bates (IND)	5,137	.4
Willie C. Jacox (IND)	1,406	.1
Arnold Joseph Zandie (IND)	1,061	.1
Texas:		
Lloyd Bentsen (D)	2,199,956	56.8
Alan Steelman (R)	1,636,370	42.2
Marjorie P. Gallion (A)	17,355	.5
Pedro Vasquez (SW)	20,549	.5

33 SENATE ELECTIONS IN 1976—cont.

	Votes	Percent
Utah:		
Frank E. Moss (D)	223,948	42.9
Orrin G. Hatch (R)	290,221	55.6
George Merl Batchelor (A)	4,913	.9
Steve Trotter (LIB)	3,026	.6
Vermont:		
Thomas P. Salmon (D)	85,682	45.3
Robert T. Stafford (R)	94,481	50.0
Nancy Kaufman (LU)	8,801	4.7
Virginia:		
E. R. (Bud) Zumwalt (D)	596,009	38.3
Harry F. Byrd, Jr. (Ind)	890,778	57.2
Martin H. Perper (Ind)	70,559	4.5
Washington:		
Henry M. Jackson (D)	1,071,219	71.8
George M. Brown (R)	361,546	24.3
William F. Wertz, Jr. (LP)	3,389	.2
Richard K. Kenney (LIB)	19,373	1.3
Dave Smith (AIP)	28,182	1.9
Karl Bermann (SW)	7,402	.5
West Virginia:		
Robert C. Byrd (D)	556,359	100.0
Wisconsin:		
William Proxmire (D)	1,396,970	72.2
Stanley York (R)	521,902	27.0
Robert Schwartz (SW)	4,876	.3
William O. Hart (DS)	7,354	.4
Michael A. MacLaurin (USLP)	2,148	.1
Robert E. Nordlander (SL)	1,731	.1
Wyoming:		
Gale W. McGee (D)	70,558	45.4
Malcolm Wallop (R)	84,810	54.6

33 SENATE ELECTIONS IN 1974–75

	Votes	Percent
Alabama:		
James B. Allen (D)	501,541	95.8
Alvin Abercrombie (P)	21,749	4.2
Alaska:		
Mike Gravel (D)	54,361	58.2
C. R. Lewis (R)	38,914	41.7
Arizona:		
Barry M. Goldwater (R)	320,396	58.3
Jonathan Marshall (D)	229,523	41.7
Arkansas:		
Dale Bumpers (D)	461,056	84.9
John Harris Jones (R)	82,026	15.1
California:		
Alan Cranston (D)	3,639,334	60.5
H. L. Richardson (R)	2,176,315	36.2
Jack McCoy (AIP)	100,111	1.7
Gayle M. Justice (PFP)	95,394	1.6
Colorado:		
Gary Hart (D)	471,688	57.2
Peter H. Dominick (R)	325,526	39.6
Joseph Fred Hyskell (P)	8,404	1.0
John M. King (IND)	16,131	2.0
Henry John Olshaw (A)	2,394	.3
Connecticut:		
Abraham A. Ribicoff (D)	690,820	63.7
James H. Brannen, III (R)	372,055	34.3
Arthur F. Capozzi, Jr. (GWP)	19,184	1.8
Norman L. Rochon (A)	2,682	.2
Florida:		
Richard (Dick) Stone (D)	781,031	43.4
Jack Eckerd (R)	736,674	40.9
John Grady (A)	282,659	15.7
Georgia:		
Herman E. Talmadge (D)	627,376	71.7
Jerry R. Johnson (R)	246,866	28.2
Hawaii:		
Daniel K. Inouye (D)	207,454	82.9
James D. Kimmel (P)	42,767	17.1
Idaho:		
Frank Church (D)	145,140	56.1
Bob Smith (R)	109,072	42.1
Jean L. Stoddard (A)	4,635	1.8
Illinois:		
Adlai E. Stevenson, III (D)	1,811,496	62.2
George M. Burditt (R)	1,084,884	37.2
Edward Thomas Heisler (SW)	12,413	.4
Ishmael Flory (COM)	5,873	.2
Indiana:		
Birch Bayh (D)	889,269	50.7
Richard Lugar (R)	814,117	46.4
Don L. Lee (A)	49,592	2.8
Iowa:		
John C. Culver (D)	426,947	50.0
David Stanley (R)	420,546	49.3
Lorin E. Oxley (A)	6,028	.7
Kansas:		
Bob Dole (R)	403,983	50.8
Bill Roy (D)	390,451	49.1
Kentucky:		
Wendell H. Ford (D)	398,887	53.6
Marlow W. Cook (R)	328,260	44.1
William E. Parker (A)	17,551	2.4
Louisiana:		
Russell B. Long (D)	434,643	100.0
Maryland:		
Charles McC. Mathias (R)	503,223	57.3
Barbara A. Mikulski (D)	374,563	42.7
Missouri:		
Thomas F. Eagleton (D)	735,433	60.1
Thomas B. Curtis (R)	480,900	39.3
C. E. (Cliff) Talmage (IND)	7,970	.7
Nevada:		
Paul Laxalt (R)	79,605	47.0
Harry Reid (D)	78,981	46.6
Jack C. Doyle (IA)	10,887	6.4
New Hampshire (1975):		
John A. Durkin (D)	140,778	53.6
Louis C. Wyman (R)	113,007	43.1
Carmen C. Chimento (A)	8,787	3.3
New York:		
Ramsey Clark (D)	1,973,781	38.2
Jacob K. Javits (R)	2,098,529	40.6
Jacob K. Javits (L)	241,659	4.7
Barbara A. Keating (C)	822,584	15.9
Rebecca Finch (SW)	7,727	.1
Robert E. Massi (SL)	4,037	.1
Elijah C Boyd, Jr. (LP)	3,798	.1
Mildred Edelman (COM)	3,876	.1
William F. Dowling, Jr. (CRG)	7,459	.1
North Carolina:		
Robert Morgan (D)	633,775	62.1
William E. Stevens (R)	377,618	37.0
Rudolph Nesmith (SL)	8,974	.9
North Dakota:		
Milton R. Young (R)	114,852	48.4
William L. "Bill" Guy (D)	114,675	48.4
Kenneth C. Gardner (IND)	853	.4
James R. Jungroth (IND)	6,679	2.8
Ohio:		
John Glenn (D)	1,930,670	64.6
Ralph J. Perk (R)	918,133	30.7
K. G. Harroff (IND)	76,882	2.6
Richard B. Kay (IND)	61,921	2.1
Oklahoma:		
Henry Bellmon (R)	390,997	49.4
Ed Edmondson (D)	387,162	48.9
Paul Edward Trent (IND)	13,650	1.7
Oregon:		
Bob Packwood (R)	420,984	54.9
Betty Roberts (D)	338,591	44.2
Jason Boe (Write In)	5,072	.7
Pennsylvania:		
Richard S. Schweiker (R)	1,843,317	53.0
Pete Flaherty (D)	1,596,121	45.9
George W. Shankey, Jr. (CST)	38,004	1.1
South Carolina:		
Ernest F. Hollings (D)	356,126	69.5
Gwen Bush (R)	146,645	28.6
Harold Hough (IND)	9,626	1.9
South Dakota:		
George McGovern (D)	147,929	53.0
Leo K. Thorsness (R)	130,955	47.0

33 SENATE ELECTIONS IN 1974–75—cont.

	Votes	Percent
Utah:		
Jake Garn (R)	210,299	50.0
Wayne Owens (D)	185,377	44.1
Kenneth Rex Larsen (A)	24,966	5.9
Vermont:		
Patrick J. Leahy (D)	67,125	47.0
Richard W. Mallary (R)	66,223	46.4
Bernard Sanders (LU)	5,901	4.1
Patrick J. Leahy (IV)	3,504	2.5
Washington:		
Warren G. Magnuson (D)	611,811	60.7
Jack Metcalf (R)	363,626	36.1
Clare Fraenz (SW)	8,176	.8
Gene Goosman (AIP)	19,871	2.0
Patrick Ruckert (USLP)	4,363	.4
Wisconsin:		
Gaylord A. Nelson (D)	740,700	61.8
Thomas E. Petri (R)	429,327	35.8
Gerald L. McFarren (A)	24,003	2.0
Roman Blenski (IND)	5,396	.4

34 SENATE ELECTIONS IN 1972

	Votes	Percent
Alabama:		
John Sparkman (D)	654,491	62.3
Winton M. Blount (R)	347,523	33.1
Herbert W. Stone (C)	6,338	.6
John L. LeFlore (ND)	31,421	3.0
Jerome B. Couch (P)	10,026	1.0
Alaska:		
Gene Guess (D)	21,791	22.7
Ted Stevens (R)	74,216	77.3
Arkansas:		
John L. McClellan (D)	306,398	60.9
Wayne H. Babbitt (R)	248,238	39.1
Colorado:		
Floyd K. Haskell (D)	457,545	49.4
Gordon Allott (R)	447,957	48.4
Henry John Olshaw (IA)	7,353	.8
Secundo (Sal) Salazar (LRU)	13,228	1.4
Delaware:		
Joseph R. Biden, Jr. (D)	116,006	50.5
J. Caleb Boggs (R)	112,844	49.1
Henry M. Majka (A)	803	.3
Herbert B. Wood (P)	175	.1
Georgia:		
Sam Nunn (D)	635,970	54.0
Fletcher Thompson (R)	542,331	46.0
Idaho:		
William E. (Bud) Davis (D)	140,913	45.5
James A. McClure (R)	161,804	52.3
Jean Stoddard (A)	6,825	2.2
Illinois:		
Roman C. Pucinski (D)	1,721,901	37.3
Charles H. Percy (R)	2,667,078	62.2
Edward C. Gross (SL)	13,384	.3
Arnold F. Becchetti (COM)	6,103	.2
Dakin Williams (write-in)	396	----
Iowa:		
Dick Clark (D)	662,637	55.1
Jack Miller (R)	530,525	44.1
William Rocap (AI)	8,954	.7
Fred Richard Benton (IAL)	1,203	.1
Kansas:		
Arch O. Tetzlaff (D)	200,764	23.0
James B. Pearson (R)	622,591	71.4
Gene F. Miller (C)	35,610	4.1
Howard Hadin (P)	12,857	1.5
Kentucky:		
Walter (Dee) Huddleston (D)	528,550	50.9
Louis B Nunn (R)	494,337	47.6
Helen Breeden (A)	8,707	.9
William E. Bartley, Jr. (PP)	6,267	.6
Louisiana:		
J. Bennett Johnston, Jr. (D)	598,967	55.2
Ben C. Toledano (R)	206,846	19.1
John J. McKeithen (IND)	250,161	23.0
Hall M. Lyons (A)	28,910	2.7
Maine:		
William D. Hathaway (D)	224,270	53.2
Margaret Chase Smith (R)	197,040	46.8
Massachusetts:		
John J. Droney (D)	823,278	34.7
Edward W. Brooke (R)	1,505,932	63.5
Donald Gurewitz (SW)	41,369	1.8
Michigan:		
Frank J. Kelley (D)	1,577,178	46.3
Robert P. Griffin (R)	1,781,055	52.3
Patrick V. Dillinger (AI)	23,121	.7
Thomas D. Dennis, Jr. (COM)	1,908	----
Barbara Halpert (HR)	19,118	.5
James Sim (SL)	2,127	.1
Linda Nordquist (SW)	2,389	.1
Minnesota:		
Walter F. Mondale (D)	961,320	56.7
Philip Hansen (R)	742,121	42.8
Karl H. Heck (IG)	8,192	.5
Mississippi:		
James D. Eastland (D)	375,102	58.1
Gil Carmichael (R)	249,799	38.7
Prentiss Walker (IND)	14,662	2.3
C. L. McKinley (IND)	6,203	.9
Montana:		
Lee Metcalf (D)	163,609	52.0
Henry S. Hibbard (R)	151,316	48.0
Nebraska:		
Terry M. Carpenter (D)	265,922	46.8
Carl T. Curtis (R)	301,841	53.2
New Hampshire:		
Thomas J. McIntyre (D)	184,495	56.9
Wesley Powell (R)	139,852	43.1
New Jersey:		
Paul J. Krebs (D)	963,573	34.4
Clifford P. Case (R)	1,743,854	62.5
A. Howard Freund (A)	40,980	1.5
Julius Levin (SL)	10,058	.4
Charles W. Wiley (CVV)	33,442	1.2
New Mexico:		
Jack Daniels (D)	173,815	46.0
Pete V. Dominici (R)	204,353	54.0
North Carolina:		
Nick Galifianakis (D)	677,293	46.0
Jesse A. Helms (R)	795,248	54.0
Oklahoma:		
Ed Edmondson (D)	478,212	47.6
Dewey F. Bartlett (R)	516,934	51.4
William G. Roach (A)	5,769	.6
Joe C. Phillips (IND)	2,264	.2
Paul E. Trent (IND)	1,699	.2
Oregon:		
Wayne L. Morse (D)	425,036	46.2
Mark O. Hatfield (R)	494,671	53.7
Rhode Island:		
Claiborne Pell (D)	221,942	53.7
John H. Chafee (R)	168,990	45.7
Patrick M. DeTemple (SW)	458	.1
John Quattrocchi (IND)	2,041	.5
South Carolina:		
Eugene N. Zeigler (D)	241,056	36.7
Strom Thurmond (R)	415,806	63.3
South Dakota:		
James Abourezk (D)	174,773	57.0
Robert Hirsch (R)	131,613	43.0
Tennessee:		
Ray Blanton (D)	440,599	37.8
Howard H. Baker, Jr. (R)	716,539	61.5
Dan East (IND)	7,026	.6

34 SENATE ELECTIONS IN 1972—cont.

	Votes	Percent
Texas:		
Barefoot Sanders (D)	1,511,985	44.3
John G. Tower (R)	1,822,877	53.4
Flores Amaya (LRU)	63,543	1.9
Tom Leonard (SW)	14,464	.4
Vermont (special election, Jan. 7, 1972):		
Robert T. Stafford (R)	45,646	65.7
Randolph T. Major (D)	23,787	34.3
Virginia:		
William B. Spong, Jr. (D)	643,963	46.1
William Lloyd Scott (R)	718,337	51.5
Horace E. Henderson (IND)	33,912	2.4
West Virginia:		
Jennings Randolph (D)	486,310	66.5
Louise Leonard (R)	245,531	33.5
Wyoming:		
Mike M. Vinich (D)	40,753	28.7
Clifford F. Hansen (R)	101,314	71.3

35 SENATE ELECTIONS IN 1970

	Votes	Percent
Alaska:		
Stevens, Ted (R)	47,908	59.6
Kay, Wendell P. (D)	32,456	40.4
Arizona:		
Fannin, Paul (R)	228,284	56.0
Grossman, Sam (D)	179,512	44.0
California:		
Murphy, George (R)	2,877,617	44.3
Tunney, John V. (D)	3,496,558	53.9
Ripley, Charles C. (AL)	61,251	.9
Scheer, Robert (PF)	56,731	.9
Connecticut:		
Weicker, Lowell P. (R)	454,721	41.7
Duffey, Joseph D. (D)	368,111	33.8
Dodd, Thomas J. (DI)	266,497	24.5
Delaware:		
Roth, William V. (R)	94,979	58.8
Zimmerman, Jacob (D)	64,740	40.1
Gies, Donald (A)	1,720	1.1
Florida:		
Cramer, William C. (R)	772,817	46.1
Chiles, Lawton (D)	902,438	53.9
Hawaii:		
Fong, Hiram L. (R)	124,163	51.6
Heftel, Cecil (D)	116,597	48.4
Illinois (special election):		
Smith, Ralph T. (R)	1,519,718	42.2
Stevenson, Adlai E. III (D)	2,065,054	57.4
Henderson, Lynn (SW)	8,859	.2
Fisher, Louis (SL)	5,564	.2
Indiana:		
Roudebush, Richard L. (R)	866,707	49.9
Hartke, Vance (D)	870,990	50.1
Maine:		
Bishop, Neil S. (R)	123,906	38.3
Muskie, Edmund S. (D)	199,954	61.7
Maryland:		
Beall, J. Glenn, Jr. (R)	484,960	50.7
Tydings, Joseph D. (D)	460,422	48.1
Wilder, Harvey (AL)	10,988	1.1
Massachusetts:		
Spaulding, Josiah A. (R)	715,978	37.0
Kennedy, Edward M. (D)	1,202,857	62.2
Gilfedder, Lawrence (SL)	10,378	.5
Shaw, Mark R. (P)	5,944	.3
Michigan:		
Romney, Lenore (R)	858,438	32.9
Hart, Philip A. (D)	1,744,672	66.8
Lodico, Paul (SW)	3,861	.1
Sim, James (SL)	3,254	.1
Minnesota:		
MacGregor, Clark (R)	568,025	41.6
Humphrey, Hubert H. (DFL)	788,256	57.8
Strebe, Nancy (SW)	6,122	.4
Braatz, William (IG)	2,484	.2
Mississippi:		
Stennis, John C. (D)	286,622	88.4
Thompson, William R. (IND)	37,593	11.6
Missouri:		
Danforth, John C. (R)	617,903	48.1
Symington, Stuart (D)	655,431	51.0
Chapman, Gene (A)	10,065	.8
DiGirolamo, E. J. (IND)	513	----
Montana:		
Wallace, Harold E. (R)	97,809	39.5
Mansfield, Mike (D)	150,060	60.5
Nebraska:		
Hruska, Roman L. (R)	240,894	52.5
Morrison, Frank B. (D)	217,681	47.5
Nevada:		
Raggio, William J. (R)	60,838	41.2
Cannon, Howard W. (D)	85,187	57.6
DeSellem, Harold G. (IA)	1,743	1.2
New Jersey:		
Gross, Nelson G. (R)	903,026	42.2
Williams, Harrison A. (D)	1,157,074	54.0
Job, Joseph F. (IND)	58,992	2.8
O'Grady, William J. (NC)	12,938	.6
Mans, Joseph S. (IND)	6,066	.3
Levin, Julius (SL)	4,009	.2
New Mexico:		
Carter, Anderson (R)	135,004	46.6
Montoya, Joseph M. (D)	151,486	52.3
Higgs, William L. (PC)	3,382	1.2
New York:		
Goodell, Charles (R)	1,178,679	20.1
Goodell, Charles (L)	225,793	3.8
Ottinger, Richard L. (D)	2,171,232	36.8
Buckley, James L. (C)	2,179,640	37.1
Buckley, James L. (IAL)	108,550	1.8
Johnson, Arnold (COM)	4,097	----
Dawson, Kipp (SW)	3,549	----
Emanuel, John (SL)	3,204	----
North Dakota:		
Kleppe, Thomas S. (R)	82,996	37.8
Burdick, Quentin N. (D)	134,519	61.3
Kleppe, Russell (IND)	2,045	.9
Ohio:		
Taft, Robert A., Jr. (R)	1,565,682	49.7
Metzenbaum, Howard M. (D)	1,495,262	47.4
Kay, Richard B. (AI)	61,261	1.9
O'Neill, John (SL)	29,069	.9
Pennsylvania:		
Scott, Hugh (R)	1,874,106	51.4
Sesler, William G. (D)	1,653,774	45.4
Gaydosh, Frank W. (CST)	85,813	2.4
MacFarland, W. Henry (AI)	18,275	.5
Johansen, Herman A. (SL)	4,375	.1
Maisel, Robin (SW)	3,970	.1
Mimms, William R. (CP)	3,932	.1
Rhode Island:		
McLaughlin, John J. (R)	107,351	31.5
Pastore, John O. (D)	230,469	67.5
Fenton, David N. (PFP)	2,046	.7
Fein, Daniel B. (SW)	996	.3
Tennessee:		
Brock, William E. (R)	562,645	51.3
Gore, Albert (D)	519,858	47.4
Pitard, Cecil R. (A)	8,691	.8
East, Dan R. (IND)	5,845	.5
Texas:		
Bush, George (R)	1,035,794	46.5
Bentsen, Lloyd (D)	1,194,069	53.5

35 SENATE ELECTIONS IN 1970—cont.

	Votes	Percent
Utah:		
Burton, Lawrence J. (R)	159,004	42.5
Moss, Frank E. (D)	210,207	56.2
Freeman, Clyde B. (AI)	5,092	1.4
Vermont:		
Prouty, Winston L. (R)	91,198	58.9
Hoff, Philip H. (D)	62,271	40.2
Meyer, William H. (LU)	1,416	.9
Virginia:		
Garland, Ray (R)	145,031	15.3
Rawlings, George C. (D)	295,057	31.2
Byrd, Harry F., Jr. (IND)	506,633	53.5
Washington:		
Elicker, Charles W. (R)	170,790	16.0
Jackson, Henry M. (D)	879,385	82.4
Massey, William (SW)	9,255	.9
Fisk, Edison S. (B)	7,377	.7
West Virgina:		
Dodson, Elmer H. (R)	99,658	22.4
Byrd, Robert C. (D)	345,965	77.6
Wisconsin:		
Erickson, John E. (R)	381,297	28.5
Proxmire, William (D)	948,445	70.8
Hou-Seye, Edmond E. (A)	6,137	.5
Boardman, Elizabeth (IND)	2,022	.2
Quinn Martha (SW)	580	----
Wiggert, Adolf (SL)	428	----
Wyoming:		
Wold, John S. (R)	53,279	44.2
McGee, Gale W. (D)	67,207	55.8

34 SENATE ELECTIONS IN 1968

	Votes	Percent
Alabama:		
Hooper, Perry (R)	201,227	22.0
Allen, James B. (D)	638,774	70.0
Schwenn, Robert P. (NDPA)	72,669	8.0
Alaska:		
Rasmuson, Elmer (R)	30,286	37.4
Gravel, Mike (D)	36,527	45.1
Gruening, Ernest (write-in)	14,118	17.4
Arizona:		
Goldwater, Barry (R)	274,607	57.2
Elson, Roy (D)	205,338	42.8
Arkansas:		
Bernard, Charles T. (R)	241,739	40.9
Fulbright, J. W. (D)	349,965	59.1
California:		
Rafferty, Max (R)	3,329,148	46.9
Cranston, Alan (D)	3,680,352	51.8
Jacobs, Paul (PFP)	92,965	1.3
Colorado:		
Dominick, Peter H. (R)	459,952	58.6
McNichols, Stephen L. R. (D)	325,584	41.4
Connecticut:		
May, Edwin H., Jr. (R)	551,455	45.7
Ribicoff, Abraham A. (D)	655,043	54.3
Florida:		
Gurney, Edward J. (R)	1,131,499	55.9
Collins, LeRoy (D)	892,637	44.1
Georgia:		
Patton, E. Earl, Jr. (R)	256,796	22.5
Talmadge, Herman (D)	885,093	77.5
Hawaii:		
Thiessen, Wayne C. (R)	34,008	15.0
Inouye, Daniel K. (D)	189,248	83.4
Lee, Oliver M. (PFP)	3,671	1.6
Idaho:		
Hansen, George V. (R)	114,394	39.7
Church, Frank (D)	173,482	60.3
Illinois:		
Dirksen, Everett McKinley (R)	2,358,947	53.0
Clark, William G. (D)	2,073,242	46.6
Fisher, Louis (SL)	17,542	.4
Indiana:		
Ruckelshaus, William (R)	988,571	48.1
Bayh, Birch (D)	1,060,456	51.7
Malcolm, L. Earl (P)	2,844	.1
Levitt, Ralph (SW)	1,247	.1
Iowa:		
Stanley, David M. (R)	568,469	49.7
Hughes, Harold E. (D)	574,884	50.2
Higens, Verne M. (P)	727	.1
Kansas:		
Dole, Robert (R)	490,911	60.1
Robinson, William I. (D)	315,911	38.7
Hyskell, Joseph E. (P)	10,262	1.3
Kentucky:		
Cook, Marlow W. (R)	484,260	51.4
Peden, Katherine (D)	448,960	47.6
Olson, Duane F. (Ind.)	9,645	1.0
Louisiana:		
Long, Russell B. (D)	518,586	100.0
Maryland:		
Mathias, Charles McC., Jr. (R)	541,893	47.8
Brewster, Daniel B. (D)	443,367	39.1
Mahoney, George P. (IND)	148,467	13.1
Missouri:		
Curtis, Thomas B. (R)	850,544	48.9
Eagleton, Thomas F. (D)	887,414	51.1
Nevada:		
Fike, Ed (R)	69,068	45.2
Bible, Alan (D)	83,622	54.8
New Hampshire:		
Cotton, Norris (R)	170,163	59.3
King, John W. (D)	116,816	40.7
New York:		
Javits, Jacob (R)	2,810,836	42.7
Javits, Jacob (L)	458,936	7.0
O'Dwyer, Paul (D)	2,150,695	32.7
Buckley, James L. (C)	1,139,402	17.3
Ferguson, Homer (FP)	8,775	.1
Emanuel, John (SL)	7,964	.1
Garza, Hedda (SW)	4,979	.1
North Carolina:		
Somers, Robert V. (R)	566,934	39.4
Ervin, Sam J., Jr. (D)	870,406	60.6
North Dakota:		
Young, Milton R. (R)	154,968	64.8
Lashkowitz, Hershcel (D)	80,815	33.8
Mutch, Duane (TRT)	3,393	1.4
Ohio:		
Saxbe, William B. (R)	1,928,964	51.5
Gilligan, John J. (D)	1,814,152	48.5
Oklahoma:		
Bellmon, Henry (R)	470,120	51.7
Monroney, A. S. Mike (D)	419,658	46.2
Washington, George (A)	19,341	2.1
Oregon:		
Packwood, Robert W. (R)	408,646	50.2
Morse, Wayne (D)	405,353	49.8

34 SENATE ELECTIONS IN 1968—cont.

	Votes	Percent
Pennsylvania:		
Schweiker, Richard S. (R)	2,399,762	51.9
Clark, Joseph S. (D)	2,117,662	45.8
Gaydash, Frank W. (CST)	96,742	2.1
Perry Benson (SL)	7,198	.2
Chertov, Pearl (SW)	2,743	.1
South Carolina:		
Parker, Marshall (R)	248,780	38.1
Hollings, Ernest F. (D)	404,060	61.9
South Dakota:		
Gubbrud, Archie (R)	120,951	43.2
McGovern, George (D)	158,961	56.8
Utah:		
Bennett, Wallace F. (R)	225,075	53.7
Wellenmann, Milton L. (D)	192,168	45.8
Philips, Bruce D. (PFP)	2,019	.5
Vermont:		
Aiken, George D. (R)	94,738	60.2
Aiken, George D. (D)	62,416	39.7
Washington:		
Metcalf, Jack (R)	435,894	35.3
Magnuson, Warren G. (D)	796,183	64.4
Hogenauer, Irwin R. (N)	2,762	.2
Leonard, Debbie (SW)	1,224	.1
Wisconsin:		
Leonard, Jerris (R)	633,910	38.3
Nelson, Gaylord (D)	1,020,931	61.7

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Donald D. Forsht, of Florida, to be U.S. marshal for the southern district of Florida for the term of 4 years (reappointment).

Robert E. Raiche, of New Hampshire, to be U.S. marshal for the district of New Hampshire for the term of 4 years, vice Victor Cardosi.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, August 10, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

AUTHORIZATION FOR THE COMMITTEE ON JUDICIARY TO MEET 1 ADDITIONAL HOUR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary may be authorized to meet for an additional hour tomorrow beyond what it would be entitled to meet under the Stevenson resolution.

Mr. BAKER. Mr. President, reserving the right to object, will the majority leader advise me whether or not the purpose of the meeting of the Judiciary Committee for the additional hour falls within the scope of his statements and my statement to the effect that, at this point in the session, we did not plan to grant unanimous consent for those purposes, except for the consideration of energy bills or other urgent matters?

Mr. ROBERT C. BYRD. Mr. President, I am given to understand that at least one of the matters that would be taken up in the Judiciary Committee tomorrow would be a matter with respect to the implementation of the Mexican-Canadian prisoner exchange.

Mr. BAKER. Mr. President, I think, under the circumstances, that is a matter that requires our immediate consideration and there will be no objection.

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

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

PRIVILEGE OF THE FLOOR

Mr. MUSKIE. Mr. President, I ask unanimous consent that during consideration of and voting on S. 1952, the Clean Water Act of 1977, the following members of the staff of Environment and Public Works Committee be granted the privilege of the floor:

John Yago, Philip Cummings, Richard Harris, Leon G. Billings, John Freshman, Sally Walker, James Range, Jacqueline Schafer, Judy Parente, Mike Naeve, Dick Oshlo, and Bob Van Heuvelin.

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

ORDER FOR RECOGNITION OF SENATOR LEAHY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that prior to the order for the recognition of Mr. JAVITS on tomorrow, Mr. LEAHY be recognized for not to exceed 15 minutes.

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

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m. tomorrow.

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

ORDER FOR CONSIDERATION TOMORROW OF S. 1952, THE FEDERAL WATER POLLUTION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the two orders for the recognition of Senators tomorrow, the Senate then proceed to the consideration of the Federal Water Pollution bill, S. 1952, Calendar Order N. 342.

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the calendar which have been cleared for passage by unanimous consent.

On the Unanimous-Consent Calendar, Mr. President, I would refer the Chair to that calendar. I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 337, 338, and 345.

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

WESTERN STATES CONSERVATION ACT OF 1977

The Senate proceeded to consider the bill (S. 1614) to establish the Western States conservation program, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Western States Conservation Act of 1977".

SEC. 2. Section 16(b)(1) of the Soil Conservation and Domestic Allotment Act (70 Stat. 1115, as amended; 16 U.S.C. 590p(b)(1)) is amended by—

(1) striking out "Great Plains area" whenever such phrase appears therein and inserting in lieu thereof "Western States region";

(2) striking out in the second complete sentence "Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming," and inserting in lieu thereof "Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming,";

(3) amending the fourth complete sentence to read as follows: "Such plan may also include practices and measures for (A) enhancing fish and wildlife, (B) improving irrigation systems to conserve water, and (C) reducing or controlling agricultural related pollution.";

(4) redesignating clause (v) of the seventh complete sentence as clause (vi) and adding after clause (iv) a new clause (v) as follows:

"(v) to forfeit all rights to disaster pay-

ments for production losses with respect to an agricultural product or commodity under any other law administered by the Department of Agriculture if such production losses are sustained in connection with lands on which permanent conservation measures are installed under a contract entered into under this subsection and such conservation measures are later destroyed by the owner or operator of the farm, ranch or other land; and".

SEC. 3. This Act shall become effective October 1, 1978.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-362), explaining the purposes of the measure.

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

SHORT EXPLANATION

S. 1614 amends 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. As amended by the committee, S. 1614 would—effective October 1, 1978—

(1) Extend the program into all 22 contiguous States west of the Mississippi River;

(2) Authorize farmers and ranchers participating in the program to utilize program funds to improve irrigation systems to conserve water; and

(3) Add a condition to cost-sharing contracts under the program that farmers or ranchers who destroy permanent conservation measures installed on farms or ranches under the program forfeit all rights to Federal disaster payments for farm production losses.

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. Mr. President, I would like to note the passage of S. 1614 by Senator HAYAKAWA, my colleague, and call attention to the fact that this may be his first bill passed. I am not certain that is so, but it may well be and I congratulate him on his diligent and effective work.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

GREAT PLAINS CONSERVATION PROGRAM AMENDMENTS OF 1977

The Senate proceeded to consider the bill (S. 896) to amend Public Law 91-118, the act of November 18, 1969 (83 Stat. 194), providing for a Great Plains conservation program, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert the following:

That section 16(b) of the Soil Conservation and Domestic Allotment Act (70 Stat. 1115, as amended; 16 U.S.C. 590p(b)) is amended by—

(1) in the second complete sentence of paragraph (1), striking out "Such contracts may be entered into during the period ending not later than December 31, 1981, with respect to farms, ranches, and other lands in counties" and inserting in lieu thereof "Such contracts may be entered into with respect to farms, ranches, and other lands", and striking out the comma immediately following "Wyoming" and all that follows down through the end of the sentence and inserting in lieu thereof a period; and

(2) in paragraph (7), striking out the colon preceding the word "Provided" and all that follows down through "$25,000,000".

SEC. 2. This Act shall become effective October 1, 1978.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-364), explaining the purposes of the measure.

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

SHORT EXPLANATION

S. 896 amends section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program. As amended by the committee, S. 896 would—effective October 1, 1978—

(1) Make the Great Plains conservation program permanent—by striking out the provisions in current law that no new conservation contracts may be entered into after December 31, 1981;

(2) Make the program available to all farmers in eligible States, not just those in counties classified as "semi-arid"; and

(3) Amend the authorization for the appropriations to carry out the program by deleting the current $300,000,000 limitation on total appropriations and $25,000,000 limitation on annual appropriations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL SICKLE CELL MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 71) to authorize and request the President to issue annually a proclamation designating September of each year as "National Sickle Cell Month," which had been reported from the Committee on the Judiciary with amendments as follows:

In line 3, strike "annually";

In line 4, strike "of each year" and insert "1977";

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue annually a proclamation designating September of each year 1977 as "National Sickle Cell Month", and calling upon the people of the United States and interested groups and organizations to observe that month with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A joint resolution to authorize and request the President to issue a proclamation designating September 1977 as "National Sickle Cell Month."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was adopted.

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

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 351 (S. 911).

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate also proceed to the consideration of Calendar No. 346 (H.R. 7345), and Calendar No. 347 (H.R. 6502).

Mr. ROBERT C. BYRD. Mr. President, I understand that these measures have been cleared on both sides for passage, by unanimous consent.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the three items are cleared for passage—No. 351, a bill by the distinguished Senator from Connecticut (Mr. WEICKER), 346, and 347. There is no objection to the passage on this side.

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

MEE HWA HONG

The Senate proceeded to consider the bill (S. 911) for the relief of Mr. and Mrs. Brian Logan, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Mee Hwa Hong may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Brian Logan, citizens of the United States, pursuant to section 204 of the Act: Provided, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

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

The amendment was agreed to.

Mr. WEICKER. Mr. President, this bill requests a waiver of the law which only permits for two Korean children to be adopted by a family in this country. This is for a third such adoption. I have no weighty statement to make. This involves the adoption of a third Korean child by the Brian Logans, and God bless them.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 911) was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Mee Hwa Hong.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

EXTENSION OF AUTOMOBILE ASSISTANCE ALLOWANCE AND EQUIPMENT ELIGIBILITY

The Senate proceeded to consider the bill (H.R. 6502) to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) section 1901 of title 38, United States Code, is amended by striking out "on or after September 16, 1940" in clauses (A) and (B) of paragraph (1).

(b) The amendment made by subsection (a) of this section shall become effective October 1, 1977.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1977

The Senate proceeded to consider the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert:

That this Act be cited as the "Veterans and Survivors Pension Adjustment Act of 1977".

TITLE I—VETERANS' AND SURVIVORS' PENSIONS

SEC. 101. Section 521 of title 38, United States Code, is amended by—

(1) amending the table in section (b)(1) to read as follows:

"The monthly rate of pension shall be $197 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1.100
.07	1,100	1,700
.08	1,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension for a veteran shall be—$212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,000
.04	1,000	2,000
.05	2,000	3,000
.06	3,000	3,200
.07	3,200	3,600
.08	3,600	5,070";

(4) striking out "$4,760" in subsection (c)(3) and inserting in lieu thereof "$5,070";

(5) striking out "$155" in paragraphs (1) and (2) of subsection (d) and inserting in lieu thereof "$165"; and

(6) striking out "$57" in subsection (e) and inserting in lieu thereof "$61".

SEC. 102. Section 541 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of pension shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,100
.05	1,100	1,800
.06	1,800	2,700
.07	2,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension shall be $159 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.03	1,600	2,400
.04	2,400	2,900
.05	2,900	5,070";

(4) striking out "$4,760" in subsection (c)(2) and inserting in lieu thereof "$5,070"; and

(5) striking out "$24" in subsection (d) and inserting in lieu thereof "$26".

SEC. 103. Section 542 of title 38, United States Code, is amended by—

(1) striking out "$57" and "$24" in subsection (a) and inserting in lieu thereof "$61" and "$26", respectively; and

(2) striking out "$2,890" in subsection (c) and inserting in lieu thereof "$3,080".

SEC. 104. Section 544 of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 105. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,300 and $4,760 instead of $3,100 and $4,460, respectively.".

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Section 415 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $152 reduced by—	For each $1 annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.05	1,000	1,200
.06	1,200	1,500
.08	1,500	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $107 reduced by—	For each $1 annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.05	1,100	2,000
.06	2,000	2,600
.07	2,600	3,770";

(4) striking out "$3,540" in subsection (c)(3) and inserting in lieu thereof "$3,770";

(5) amending the table in subsection (d)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $102 reduced by—	For each $1 annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,000
.03	2,000	2,900
.04	2,900	3,600
.05	3,600	3,900
.06	3,900	5,070";

(6) striking out "$4,760" in subsection (d)(3) and inserting in lieu thereof "$5,070"; and

(7) striking out "$74" in subsection (h) and inserting in lieu thereof "$79".

TITLE III—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 301. Section 322(b) of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 302. The provisions of this Act shall take effect January 1, 1978.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

OCEAN POLLUTION RESEARCH PROGRAM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 339.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1617) to establish a program of ocean pollution research and monitoring, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 725

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MAGNUSON, I send to the desk several technical amendments, and I ask unanimous consent that they be considered en bloc.

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

The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Washington (Mr. MAGNUSON), proposes an unprinted amendment numbered 725.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, they being technical in nature.

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

The amendments are as follows:

Page 1, line 8, insert the word "the" before the word "coastal".

Page 2, line 4, insert the words "pollutants, including" after the word "of"; and insert a comma after the word "petroleum."

Page 2, delete lines 10 through 13.

Page 2, line 14, change "(5)" to "(4)".

Page 3, delete lines 12 through 13.

Page 3, line 14, change "(4)" to "(3)".

Page 3, after line 19, add the following:

"(4) The term 'marine environment' means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States."

Page 3, after line 19, add the following:

"(5) The term 'ocean pollution' means any short-or long-term change in the marine environment."

Page 3, after line 19, add the following:

"(6) The term 'research plan' means the Federal plan to be prepared pursuant to section 204."

Page 3, line 23, delete the word "annual" and insert in lieu thereof the words ", 3-year research".

Page 4, line 1, delete the word "annually" and insert in lieu thereof the words "every third year".

Page 4, line 3, delete the word "annual" and in insert in lieu thereof the word "research".

Page 4, line 8, insert the words "pollutants, including" after the word "of"; and insert a comma after the word "petroleum".

Page 4, after line 9, insert the following and renumber succeeding paragraphs accordingly:

"(2) a listing and explanation of the research priorities identified by the Administrator in accordance with subsection (d);"

Page 4, line 10, before the word "Director" insert the words "Administrator and the".

Page 5, line 6, delete the words "Director and the".

Page 5, line 7, delete the word "recommend" and insert in lieu thereof the word "identify".

Page 5, line 9, delete the word "annual" and insert in lieu thereof the word "research".

Page 5, line 9, after the word "consultation" insert the words "the Director,".

Page 5, after line 13, insert the following:

(e) PLAN REVISIONS.—The Administrator, with the assistance of the Director, shall prepare and submit to Congress and the President, as part of the annual report required by section 6, a detailed explanation of any revisions of the research plan during the period of such plan.

Page 7, line 19, delete the words "annual plan" and insert in lieu thereof the words "research plan, and any revision thereof,".

Page 7, after line 25 insert the following new section and renumber the succeeding section accordingly:

"SEC. 7. DISCLAIMER.

"Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal agency or department, under any law, to undertake research related to ocean pollution."

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Without objection, the amendments were agreed to en bloc.

Mr. MAGNUSON. Mr. President, when the Senate Committee on Commerce, Science, and Transportation considered the rash of tanker accidents which occurred in U.S. waters earlier this year, we learned of the paucity of information about the effort of oil pollution on the marine environment. Source after source indicated that very little is known about how the environment reacts when confronted with a petroleum spill.

We also saw rather clearly how disorganized the Federal Government ocean pollution activities really are. According to a recent report by the Department of Commerce, at least 11 agencies conduct marine oil pollution research programs: the National Science Foundation; the Environmental Protection Agency; the Bureau of Land Management, the Fish and Wildlife Service, and the U.S. Geological Survey of the Department of the Interior; the National Oceanic and Atmospheric Administration, the Maritime Administration, and the National Bureau of Standards of the Department of Commerce; the U.S. Coast Guard of the Department of Transportation; and the U.S. Navy. According to the Congressional Office of Technology Assessment, these efforts are not always well coordinated—OTA, Coastal Effects of Offshore Energy Systems; November, 1976; page 69. In addition, the OTA report concludes that—

. . . very little money is allocated to projects that address the unknowns of the effects of oil spills.

This same theme is repeated elsewhere in the literature.

Therefore the committee recommended legislation to establish the legal authority for a comprehensive ocean pollution research program, to include oil pollution of the sea. This legislation was contained in title II of S. 682, the Tanker and Vessel Safety Act of 1977. That bill passed the Senate on May 26, 1977, but title II was removed on the floor because of the jurisdictional objections of the Committee on Environment and Public Works. The provision was introduced as a separate bill and referred to that committee for not to exceed 30 legislative days. The Environment Committee took no action on the bill and it was returned to the Senate Calendar last week.

Mr. President, this is an important bill. We need to have an effective, efficient, and well-run research program on ocean pollution. Man-induced changes in the oceans, as in the atmosphere, may well affect the future condition of life on this planet. If we are not prepared to expend the small amount of funds this research requires we truly have our head in the sand.

It is also critical that we designate a lead Federal agency with authority to oversee the coordination of ocean pollution research and to fill the gaps in our efforts. The National Oceanic and Atmospheric Administration is the most logical for this task. The work of that agency after the *Argo Merchant* incident shows their ability to take on these tasks. But the committee does not intend that NOAA do all the research. Other agencies must conduct research related to their missions. Coordination is vital; this is the purpose of S. 1617.

The committee has several technical amendments to the bill. One would change the mandated 1-year research plan to a 3-year plan. This allows for longer range planning and continuity.

Mr. President, I urge the favorable passage of this bill. I also ask unanimous consent that chapter II of the recent report by the Department of Commerce on Ocean Pollution and the relevant passages from Senator Report No. 95–176 be printed at this point in the RECORD.

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

THE TANKER AND VESSEL SAFETY ACT OF 1977

(Report of the Senate Committee on Commerce, Science, and Transportation on S. 682 to amend the Ports and Waterways Safety Act of 1972, to increase the use of vessels of the United States to carry imported oil, and for other purposes)

6. OCEAN POLLUTION RESEARCH AND MONITORING

The Committee has approved new statutory authority to address the question of ocean pollution research and monitoring. It

has been well established that far more needs to be known about oil pollution in the sea, as well as ocean pollution generally. In its report on *Petroleum in the Marine Environment* issued in 1975, a National Academy of Sciences panel concluded:

"In general, much more research regarding the fates and effects of petroleum hydrocarbons in the marine environment is needed. Studies to date indicate that areas polluted with petroleum hydrocarbons "recover" within weeks or years (depending on local conditions and the characteristics of the petroleum); however, composition of the local biological communities may be altered. The oceans have considerable ability to purify themselves by biological and chemical actions. A basic question that remains unanswered is, "At what level of petroleum hydrocarbon input to the ocean might we find irreversible damage occurring?" The sea is an enormously complex system about which our knowledge is very imperfect. The ocean may be able to accommodate petroleum hydrocarbon inputs far above those occurring today. On the other hand, the damage level may be within an order of magnitude of present inputs to the sea. Until we can come closer to answering this basic question, it seems wisest to continue our efforts in the international control of inputs and to push forward research to reduce our current level of uncertainty."

More recently, the Congressional Office of Technology Assessment issued an analytical report on *Coastal Effects of Offshore Energy Systems: An Assessment of Oil and Gas Systems, Deepwater Ports, and Nuclear Powerplants Off the Coast of New Jersey and Delaware*. That report found that very little public research money is allocated to projects that address the unknowns of the effects of oil spills and other pollutants. The report also stated that there is little cooperation among Federal agencies on ocean pollution research.

Under title II of the Marine Protection, Research, and Sanctuaries Act (Public Law 92-532), the Secretary of Commerce is directed to initiate a comprehensive program and continuing program of research with respect to the possible long-range effects of ocean pollution. However, no funds have ever been expended for this kind of program. Instead, a number of projects undertaken by several Federal agencies are listed as the "comprehensive program" in an annual report by the Secretary. And as the Office of Technology Assessment report indicates, there is little coordination among these agencies. Consequently, neglect and unnecessary duplication has resulted. The purpose of title II of S. 682 is to end this situation.

Finally, in conjunction with the Outer Continental Shelf baseline research programs, the "monitoring" activities of the Federal Government were evaluated. In a report entitled, *The Environmental Quality Monitoring Report* (February 1976), the Task Team proposed the establishment of a monitoring function in the National Oceanic and Atmospheric Administration. It was stated by the team:

"The introduction of pollutants into the marine environment, a result of man's activities, may have severe effects on the Outer Continental Shelf environment. In some areas these contaminants may be hazardous to health through ingestion of seafood products. Potential losses and restricted uses of certain living marine resources suggest economic hardship to portions of the fishing industry. Also, recreational areas may be lost as a result of contamination by high concentrations of pollutants. The Outer Continental Shelf Task Team proposes a monitoring program combined with the necessary R&D and special studies to provide the data to properly assess and monitor the effects of man's activities on the environmental quality of the OCS. The program is proposed to follow two broad, continuous, and parallel streams of action. One will involve the integration and coordination of existing facilities and plans. The other will identify activities that require further development and planning."

Title II of S. 682 addresses this issue as well.

REPORT TO THE CONGRESS ON OCEAN POLLUTION, OVERFISHING, AND OFFSHORE DEVELOPMENT, JULY 1974 THROUGH JUNE 1975

(Submitted in compliance with section 202 (c), title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (Public Law 92-532), June 1976)

CHAPTER II. OCEAN POLLUTION

Coastal waters receive polluting materials from a variety of point and nonpoint sources. Materials are introduced into the coastal environment from polluted rivers and streams, land runoff, barge and other vessel dumping, discharges of shoreline outfalls, wastes discharged from submerged pipes, deballasting and bilge pumping, vessel casualties, shipping operations, and atmospheric transport. The open ocean, while relatively insulated from the myriad sources of pollutants affecting estuaries and the nearshore areas, is beginning to show signs of man's impact. The mid-ocean areas evidence elevated petroleum hydrocarbon levels, particularly along heavily trafficked tanker routes, as well as elevated concentrations of heavy metals and synthetic hydrocarbons, carried to remote oceanic regions through the atmosphere. Oceanic currents also play a role in transporting polluting materials from nearshore regions to deeper waters.

For both the nearshore and deepwater regions, the basic informational needs are essentially the same. These include: (1) sources and quantities of anthropogenic materials reaching the marine environment; (2) pathways of such materials into and through the food chain; (3) the toxicity of the materials to marine organisms and to man through the consumption of seafood; and (4) the persistence of the pollutant in the marine environment. In addition, research must be focused on both the acute or immediate effects as well as the longer-term or chronic effects on marine organisms. While there are many investigations in progress in this country and others, the task ahead is immense and the present state of knowledge in many of the fundamental areas of research is far from adequate. The problems of ocean pollution will require continuous and systematic study by all countries capable of making a contribution.

During FY 1975, the National Academy of Sciences released two major reports concerned with ocean pollution. The report entitled *Petroleum in the Marine Environment* provides an excellent summary of what is currently known about the subject and where future research efforts sought to be applied. A synopsis of this report is provided in Appendix B. The scond NAS report on marine pollution issued in FY 1975 is *Assessing Potential Ocean Pollutants*. The result of a 2½-year effort by a study panel and workshop, this report is significant because it describes and tests a methodology for ascertaining whether or not a given substance will adversely impact the marine environment. The report is summarized in Appendix C.

Marine pollution research in this country has focused on petroleum hydrocarbons, heavy metals, and man-made (synthetic) hydrocarbons. The rationale for this is that these three classes of chemical compounds: (1) are already present, in widely varying concentrations, in the oceans of the world; (2) have or may have toxic effects on marine life; (3) may or may not have a relationship to human health and well-being; and (4) will continue to be introduced into the oceans more or less in direct relation to their production, transport, and use.

PETROLEUM HYDROCARBONS

Petroleum hydrocarbons are introduced into the oceans as the result of offshore oil production activities, oil tanker operations, vessel casualties, coastal refinery operations, atmospheric transport, shoreline discharges of municipal and industrial wastes, land runoff, and natural submarine seeps. As stated in last year's annual report, the problem of estimating input and flux of PHCs in the marine environment has proven to be a most difficult task. The above-cited NAS study on petroleum in the oceans provides a "best estimate" of 5.5 million metric tons annually, to the oceans from man's activities. Petroleum additions to the oceans from natural seeps in the sea floor cannot be measured with any scientific certainty. The NAS estimate for this pathway was 0.6 mta, giving an overall total of 6.1 mta.

Research on petroleum hydrocarbons is carried out in four general areas: inputs, analytical methods, fate of PHCs (physical, chemical, and biological), and effects of PHCs. While there are a large number of research activities in progress in all these areas, the state of knowledge with respect to oil in the ocean environment is still quite incomplete. For example, information is lacking on such basic problems as how much oil enters the marine environment and from what sources, how to distinguish between PHCs and biogenic hydrocarbons, and how to assess oil spills in an adequate manner.

Marine oil pollution research programs

Many governmental agencies and private organizations are currently involved in research on oil pollution in the marine environment. Federal agencies that conduct or sponsor marine oil pollution research activities are: the National Science Foundation; the Environmental Protection Agency; the Bureau of Land Management; Fish and Wildlife Service (FWS) and the U.S. Geological Survey (USGS) of the Department of the Interior; the National Oceanic and Atmospheric Administration, the Maritime Administration, and the National Bureau of Standards (NBS) of the Department of Commerce; the U.S. Coast Guard of the Department of Transportation; and the U.S. Navy of the Department of Defense. Coastal states are also conducting or sponsoring research on various aspects of marine oil pollution. In addition, the National Academy of Sciences, Ford Foundation, Battelle Memorial Institute, American Petroleum Institute (API), various oil companies, and other organizations carried out during the reporting period studies of the distribution, fate, or effects of oil in the ocean. The nature of research programs and activities by these public agencies and private organizations is briefly summarized.

National Science Foundation. As part of its IDOE program, NSF sponsors basic research programs on the transfer and effects of pollutants, including oil, in the marine environment. In the Controlled Ecosystems Pollution Experiment, which started in 1973, natural marine communities contained in large plastic enclosures located offshore of British Columbia are subjected to low-level and long-term exposures of selected contaminants. The first CEPEX test involving petroleum was started in the summer of 1974. Preliminary findings showed that at low concentrations of PHCs (approximately 10-20 ppb) there was an enhancement of primary productivity (phytoplankton). However, more recent studies have shown that water extracts of fuel oils in concentrations of 40-60 ppb; caused a rapid population decrease followed by species shifts in these lower trophic levels. The population decrease occurs at the same time the hydrocarbon concentrations in the water column decreases. This could be the result of adsorption of the

PHCs to particulate matter, including the dying plankton, and consequent settling to the bottom. Another tentative conclusion from the CEPEX project is that the efforts of metals and petroleum on bacteria are short-term due to rapid adaptation (in days) of the populations to imposed stress. No work is underway to study the effects of contaminants on benthic organisms.

The CEPEX effort is unique because it is an attempt to bridge the gap between laboratory results and field observations of the fates and effects of selected contaminants on marine organisms in their natural environment.

Also as part of its IDOE program, NSF initiated in 1972 the Pollutant Transfer Program. While NSF's earlier Baseline Program (1971–1972) indicated levels of contaminants in water, sediment, and biota, it did not provide information on the pathways or mechanisms controlling the rate of pollutant transfer from the source and within the ocean environment. The goals of the Pollutant Transfer Program are: 1) to identify important transfer pathways and mechanisms; 2) to evaluate major environmental factors that affect transfer processes; and 3) to develop principles governing transfer of pollutants.

During the first 2 years, primary research emphasis in the Pollutant Transfer Program has been on the transport of petroleum, as well as chlorinated hydrocarbons and trace metals, to the ocean via the atmosphere, rivers, sewage and industrial outfalls, and ocean dumping. Research also was begun on the chemical form and degradation of these pollutants in the marine environment. Biological studies were designed to investigate the mechanisms of pollutant uptake by organisms, to verify transfer through the food web, and to quantify the role of organisms in pollutant dispersion.

A workshop sponsored by NSF in January 1974 reviewed the findings of the program and presented recommendations for additional research on pollutant transfer. It was pointed out that little or no research attention was being directed toward pollutants other than the three major classes (petroleum hydrocarbons, heavy metals, and synthetic organics) and that this deficiency should be corrected. The workshop participants suggested that more work must be done to determine quantitative fluxes of the three major classes of pollutants. Also recommended was an analytical means to distinguish between natural and anthropogenic sources of heavy metals and petroleum hydrocarbons in the marine environment. The NSF published in 1974 a review of the initial 2-year research effort carried out under the Pollutant Transfer Program.

Environmental Protection Agency. Research programs on the effects of oil in the marine environment are carried out by EPA in partial response to Resolution 12 of the International Conference on Marine Pollution (London, 1973), which considered the need to establish water quality criteria for the protection of the marine environment. As a part of the mission to develop the scientific basis for the establishment of water quality criteria for marine and estuarine waters, EPA is conducting toxicological studies on the acute and chronic effects of pollutants, including petroleum and heavy metals. To date the agency has conducted original investigations to determine the acute toxicity of six petroleum products on four test organisms, determined physiochemical properties of water emulsions of test oils, completed a thorough literature review on the relative effects of different refined fractions of crude oil, and developed acute toxicity bioassay procedures for oil and oil dispersants. EPA has continued developing bioassay methods to assess chronic and acute responses of marine organisms to oil pollution using a flow-through system. Besides examining measurable expressions such as feeding rates, tissue reactions are followed carefully in order to determine any possible relationships between physiological responses and tissue aberrations.

Field and laboratory studies are being carried out to determine the effects of oil spills on marine biota. Uptake of benzopyrenes by marine mollusks is being studied in an attempt to find possible cause/effect relationships between oil components and the incidence of cancer lesions in these animals, as has been reported to happen in oil spill sites. Laboratory experimentation is being conducted to determine the effect of different concentrations of oil on eggs, larvae, and juvenile fish. Further studies are being designed to determine the effect of petroleum on reproductive physiology of fish. Also, EPA is supporting a project granted to the University of Rhode Island to study the response of ecosystems to oil stress. The experimental system is expected to simulate the conditions in Narragansett Bay, Rhode Island. As oil is applied to the ecosystem, several physiological, ecological, and chemical parameters will be monitored to follow the impact of oil on the ecosystem.

Department of Commerce. NOAA has major research programs at Seattle, Washington, and Auke Bay, Alaska, to determine and understand the effects of petroleum oil on marine organisms. The ultimate objectives of these programs are to learn how well organisms tolerate various levels of exposure to oil and to define the limits of this tolerance. This knowledge is required where relatively low levels of oil are continually released to the marine environment from sewage, industrial effluents (including offshore drilling operations), land runoff, recreational or transportation activities, and where oil remains after a large spill.

In FY 1975, a NOAA interdisciplinary team, working at the National Marine Fisheries Service (NMFS) Northwest Fisheries Center at Seattle and at Auke Bay continued to examine both the acute and chronic effects of petroleum hydrocarbons.

Acute effects of oil/water dispersions and water-soluble fractions on different life stages of fish and shellfish were studied. Larvale forms were more sensitive to oil and oil fractions, particularly during molting. The frequency of molting by crustacean larvae appears to make them especially sensitive to contact with oil. Sensitivity of animals during their different life stages may be more critical than differences in sensitivities among species. Of the eight species tested, all had similar median tolerance limits, fish and shrimp were the species having best tolerances, but juvenile crab were the most resistant. Data suggest that toxicity of oil fractions is related to the amount of naphthalenes or chemically similar compounds present. The toxic fraction is volatile; after its evaporation, surviving fish recovered. Aftereffects of this exposure are still unknown.

Chronic effects on marine organisms of sublethal levels of petroleum and its fractions are being studied. Physiological and biochemical parameters are estimated to detect changes in the organisms and to determine whether these changes could affect the survival of the species. The studies document the role of such variables as temperature, concentration of oil or oil fractions, manner of exposure, and size, age, and sex of the animals. Some species of crabs lost their legs when they were exposed to oil during molting. When salmonids were fed high levels of oil, they had abnormal liver cells and structure that suggest possible metabolic and functional alterations. These factors may be involved in the observed decreased growth rate when the fish were fed high levels of oil. Salmonids contain enzymes that permit the breakdown of aromatic hydrocarbons. This ability suggests possible adaptation to the presence of petroleum oil if the initial exposure is at a level that allows time for activation of the enzymes. The enzymes and other mechanisms formed metabolic products in various organs of the body. Their effects and degree of accumulation are still unknown.

Research personnel from NOAA, EPA Region X, and the Washington State Department of Biology completed a 2-year interdisciplinary field study on the long-term chemical and biological effects of a persistent oil spill from the grounded (1972) troopship *General G. C. Meigs* in a cove on the northwest coast of Washington. The only organisms that appeared to be affected were sea urchins, which had recovered by the end of the study, an algae, which (except for the species *Laminaria andersonii*) also had recovered by the end of the study period. Intertidal plants and animals, fresh oil, and weathered tar balls were analyzed to follow changes in content of paraffin (aliphatic) hydrocarbon during the period.

Accumulation of petroleum compounds in tissues of fish and shellfish appears to be affected by types and levels of petroleum compounds, methods of exposure, and species exposed. The species that were tested metabolized the aliphatic (paraffin) compounds. Pink salmon fry rid themselves of most of the accumulated naphthalenes even though the fish remained in contaminated water. After exposed shellfish were removed to clean water, juvenile king crab rapidly cleansed themselves of the petroleum compounds, but scallops and shrimp had a much slower rate of cleaning.

The accumulation of fish of the aromatic compounds such as naphthalenes and anthracenes was related to chemical structure of the compounds. The larger the size of the molecule the slower the excretion rate of the compound and the greater the possibility of higher levels accumulating. Thus, anthracene compounds remain a longer time than benzene compounds. Benzene disappears so rapidly that it is rarely detected after the animal is removed from exposure. The potential of excreted compounds, whether parent compound or its metabolic products, for recycling and accumulation in other animals is unknown.

In addition to the work being done at Seattle and Auke Bay, the NOAA Office of Sea Grant sponsored during FY 1975 various university research efforts related to marine oil pollution.

Sea Grant researchers at the Massachusetts Institute of Technology are developing a model to predict the trajectory of oil spills given the type of oil, volume of spill, and spill location. The model will predict the size, shape, and movement of a spill as a function of time. This information can be used to develop appropriate methodology for effective nearshore and offshore cleanup systems. It will also be useful to decisionmakers relative to the siting of deepwater ports and terminal installations.

A Sea Grant-sponsored study at Woods Hole Oceanographic Institution is focused on the physicological and biochemical effects of oil on selected fishes. Researchers have shown that chronic and acute exposure to environmental levels of petroleum hydrocarbons alters the carbohydrate and lipid metabolism of those species under study. In anticipation of such stresses, baseline studies are underway at the University of Alaska to assess background levels of petroleum hydrocarbons in the sediment and dominant benthic organisms in Prudhoe Bay. These data will be used to assess the environmental impact of offshore development in this area. Similar effects studies at Louisiana State University are designed to determine the impact of petroleum hydrocarbons on commercially important species, including shrimp and oysters. Special emphasis is being placed on rates of uptake and release of petroleum hydrocar-

bons and their effect on growth and recruitment of young oysters.

Also within the Department of Commerce, the Maritime Administration continued to carry out its pollution abatement research and development program and sponsored a sampling program designed to measure hydrocarbon concentrations along heavily travelled tanker routes in the Pacific Ocean. In its research and development program, MarAd is evaluating vessel equipment and operating procedures and systems to enable U.S. vessels to operate within specified national and international discharge standards without undue economic penalty. Major R&D antipollution activities in FY 1975 included the evaluation of on-board oil/water separation and processing equipment, oil discharge control and monitoring systems, improved tank cleaning procedures, segregated ballast designs, navigation equipment, explosion suppression aboard tankers, and deepwater port equipment.

Since 1971, Exxon Corporation, under contract to CorAd, has been collecting and analyzing water samples along tanker routes in the Atlantic, Indian, and Pacific Oceans, and in the Mediterranean Sea. This worldwide sampling effort was designed to generate baseline data on the concentration and distribution of hydrocarbons (including both petroleum hydrocarbons and naturally occurring hydrocarbons) in the open sea. During the 1971–1973 sampling program in the Atlantic and Indian Oceans, water samples were obtained from Exxon tankers and from oceanographic research vessels and were analyzed. More than 1,050 samples were taken along four main tanker routes in the Atlantic Ocean and adjacent seas. Samples were taken from the top meter of the water column and at a depth of 10 meters. The results of the 1971–73 program indicate that the median concentration of nonvolatile hydrocarbons (C_{14} and higher) was 4 parts per billion (ppb) with values from 1.3 ppb to 13 ppb falling within one standard deviation. These values include hydrocarbons produced by marine organisms. In the South and North Atlantic, most surface water was found to contain <10 ppb of nonvolatile hydrocarbons. An occasional sample was found to contain 10–25 ppb. Some higher concentrations were found near ports in the northern part of the Mediterranean Sea and in the Indian Ocean near the Persian Gulf. However, the higher values, according to the Exxon study, probably result from recent input of petroleum from shipping activity near the immediate sampling area.

The Exxon-MarAd Atlantic Ocean survey was followed by a comparable baseline study in the Pacific Ocean. This survey began in mid-1973 and was completed in 1974. NOAA joined MarAd as a sponsor of the Pacific Ocean survey by Exxon. The Pacific sampling program differed from that in the Atlantic in that volatile hydrocarbons (C_4–C_8) also were measured.

Analysis of some 850 surface and subsurface samples collected in the Pacific Ocean was completed in FY 1975. The 1973–74 survey included tanker routes between such distant points as Southern California, Adak, Honolulu, Tokyo, Singapore, Wellington, Antarctica, and the Panama Canal.

Surface water in the Pacific was predominantly of <10 ppb hydrocarbon content. Nonvolatile hydrocarbons showed a median surface water concentration of 2 ppb, with values from 0.8 ppb to 13 ppb falling within one standard deviation. The highest values were found between San Francisco and Cook Inlet, Alaska. Samples from the 2,800-meter depth showed median concentrations of 0.5 ppb. The median concentration of volatile hydrocarbons was 0.09 ppb, with little difference between surface and the 2,800-meter depth. North Pacific waters appeared to contain higher concentrations of both volatiles and nonvolatiles as compared with the South Pacific. Only the northwest sector and, in particular, the San Francisco/Cook Inlet tanker route had hydrocarbon concentrations in the 10–25 ppb range. Tokyo harbor water had a measured concentration of 25 ppb.

To identify the origin of the hydrocarbons, analyses are made of the sample's complex compositions. Such analyses frequently indicate the presence of one or more compounds that came from marine organisms. However, petroleum-type hydrocarbons appear to dominate, even in samples where hydrocarbons from marine organisms occur. Petroleum-derived hydrocarbon compounds can originate from natural seeps or man's activity. Further investigative work is needed to find a more definitive indication of hydrocarbons derived from these sources.

The National Bureau of Standards is supporting NOAA in the OCS Environmental Assessment Program now underway in Alaska. The NBS is carrying out trace hydrocarbon analyses and is serving as a quality assurance laboratory for hydrocarbon analysis in sediments, tissue, and fish. NBS personnel participate in the initial sampling cruise made by each NOAA laboratory or contractor that undertakes hydrocarbon analyses. The NBS laboratory receives sample splits from all participating laboratories and processes them to provide quality assurance and interlaboratory correlation. The NBS is also developing methods and equipment needed to conduct trace hydrocarbon analysis in sea ice and at the air-ice-water interface.

Department of the Interior. Within the U.S. Geological Survey there are ongoing studies on pollution by heavy metals and organic chemical compounds in rivers, and coastal, estuarine, and continental shelf waters. The input of pollutants from rivers has been measured at selected stations for many years. The general "state of pollution" in estuaries, has been studied in most west coast estuaries, some gulf coast estuaries, and one east coast estuary. Ongoing studies have been accelerated in outer continental shelf areas of potential leasing for oil and gas development. The field studies are complemented by laboratory studies that include organic and trace metal geochemistry, origin of petroleum hydrocarbons, pollution indexes, and fate and dispersion of contaminants. The effects of OCS activities on aquifers that extend seaward beyond the coast also are being studied by the Geological Survey.

The role of the Bureau of Land Management in marine oil pollution research is in the context of the offshore oil and gas leasing program which that agency administers. BLM activities in this area are described in Chapter IV. Also described in Chapter IV are activities of the Fish and Wildlife Service which is conducting studies to determine the effects of acute and chronic oil pollution on migratory birds, including seabirds, at its Patuxent, Maryland, Wildlife Research Center.

Coast Guard. Development of forecasting techniques to predict pollutant movements is continuing. Coast Guard emphasis is fourfold: to develop field guides for use by operating personnel in forecasting movement of oil and hazardous substances in specific harbors of interest; to define procedures for the preparation by trained personnel of general field guides for any harbors; to continue to examine the potential of computers to assist in the movement forecasting problem; and to define the models and data base on movement mechanisms for petroleum products, cryogenic materials, and other hazardous substances. Specific harbor guides have been developed for New York, Puget Sound and San Francisco; guides for Galveston, San Diego and Long Beach are now being completed. Several computer models are being tested for accuracy and application to Coast Guard mission objectives. As an input to the environmental impact analysis of proposed deepwater port and offshore drilling sites off the New Jersey/Delaware coast, the Coast Guard has provided the Office of Technology Assessment (OTA) a statistical movement guide for potential oil spill accidents.

An air-deliverable, high-volume pumping system for off-loading liquid cargo from a stricken vessel was developed and delivery of eighteen operational systems to National Strike Teams was completed in FY 1974. A high seas oil containment barrier system capable of air transport and deployment was also developed. This system can contain oil in current speeds up to 1 knot and in 4-foot waves and can survive in higher currents and wave heights. Delivery of fifteen operational systems to field commands was completed in FY 1975. Development of two high seas oil recovery systems was completed in FY 1975 and procurement of operational systems is scheduled for FY 1976. The feasibility of two concepts to control and remove oil in currents of up to 10 knots was demonstrated. Further work is underway to demonstrate the feasibility of these concepts to function as total removal systems. Research continued on the feasibility of using inexpensive cotton wastes as a sorbent oil removal system.

Studies and field tests were completed on the risks, fate, and effects of petroleum spills in the Arctic environment to support the need for developing the necessary response and cleanup capability. Commercially available oil recovery equipment was tested with oil in an ice tank to evaluate its feasibility for use in an ice-laden environment. Two devices demonstrated that they had potential.

The Coast Guard's Pollution Incident Report System (PIRS) continued to provide valuable statistical data on oil discharges into the navigable waters of the United States, the contiguous zone, and the high seas.

Studies are continuing in an effort to develop means to separate and monitor waste oil in bilge and ballast water discharged from ships. Current projects include laboratory and shipboard analysis of a centrifugal oily water separator system and development of oil-in-water content monitors. Prototype development of one or more of these monitors is also planned. In addition, a test facility is being developed in Mobile, Alabama to accommodate testing of oily water separating and monitoring equipment for compliance with specifications proposed by the Intergovernmental Maritime Consultative Organization (IMCO). Data obtained at the facility will be used to determine the validity of the proposed specifications, to support the U.S. position on the specifications before IMCO, and to draft U.S. domestic specifications. These efforts continue to be closely coordinated with MarAd, EPA, and the Navy.

Coast Guard operational evaluations of a prototype multisensor airborne surveillance system have been highly successful. Several oil pollution discharge violation cases during FY 1975 were directly attributable to detections by the system of vessels discharging under cover of bad weather and cloud cover. The prototype equipment is currently being upgraded and installed in an HC-130 aircraft for long term operational use. Future systems to fit smaller surveillance aircraft are under development. Operational evaluations of fixed-site-spot and scanning sensors at several harbor locations continue.

Systems to provide capabilities for the positive identification of the source of spilled oil are being procured and distributed to operating Captain of the Port units. Usage of these systems has resulted in an ever-increasing savings in U.S. Government contingency funds that would have been expended for spill cleanup had polluting

sources not been promptly identified and caused to recover the spilled oil. Sampling and transmittal procedures and equipment for use by oil spill investigation teams are being made available to Coast Guard field commands.

Energy Research and Development Administration. Battelle Memorial Institute (Battelle-Northwest) continued their studies for the Energy Research and Development Administration (ERDA) on the fate and effects of oil in the marine environment. The studies were centered on determining the effects of long-term, chronic exposure to oil on marine intertidal communities and individual organisms, and the ultimate fate of the oil in the intertidal environment. Major progress was made in the development of a flow-through exposure system that would enable researchers to deliver known amounts of seawater-borne oil solution to organisms or communities for periods of 6 to 12 months. The system was tested and detailed analyses of the concentration and compound types present in the system were conducted.

U.S. Navy. The Navy, through the Office of Naval Research (ONR), in FY 1975 continued to sponsor several research projects that examine the microbial degradation of petroleum hydrocarbons. The Navy is supporting work at Texas University, Austin, the University of Maryland, Rutgers University, Georgia State University, State University of New York (Brockport) on microbial degradation of crude oils and other forms of PHCs. In addition, ONR is funding research on degradation of PHCs under low-temperature marine conditions at the University of Rhode Island.

A study at the Texas University Medical Branch is concerned with the chronic effects of hydrocarbons on chemoreceptive membranes of marine invertebrates. A similar effects study with bacteria is underway at Harvard University. This investigation shows that chlorinated hydrocarbons have a greater inhibitory effect on chemoreception than PHCs.

Private section oil pollution research

In the private sector, various research organizations and industrial groups are engaged in various facets of marine oil pollution research. Some of the more significant investigaitons carried out during the FY 1975 period are described.

The Ford Foundation, as part of its Energy Policy Project, published in 1974 a review of the ecological and technological aspects of marine oil pollution. The Ford Foundation document recommends that, because of the large knowledge gaps and conflicting opinion surrounding marine oil pollution, great caution be applied in making policy decisions involving oil and the marine envronment. The report urges more and better research into the problem, particularly in the more neglected aspects, such as sublethal effects, oil pollution in estuaries, background levels of biogenic and petroleum hydrocarbons, and oil pollution and its relationship to human health.

The oil industry sponsors research on marine oil pollution through the American Petroleum Institute (API), individual companies, and regional consortia. Recent API-sponsored field and laboratory research includes: sorbent recovery systems; effects of oil and chemically dispersed oil on selected marine biota; testing of oil recovery equipment; oiled waterfowl rehabilitation techniques; shoreline protection and restoration methods; biological effects of pelagic oil (tar balls); microbial degradation of PHCs; sublethal effects on marine organisms subjected to chronic exposure to oil; fate of oils in a water environment; and development and validation of techniques for the analysis of petroleum components in water, sediments, and marine animal tissues.

API has made a direct contribution to laboratory studies on oil in the marine environment by establishing four reference oils for use by their contractors. These four oils include a southern Louisiana crude, a Kuwait crude, a Venezuelan Bunker C, and a No. 2 fuel oil. Limited amounts of these reference oils are available at Texas A&M University at nominal cost for other research workers.

The Institute has sponsored since 1974 a study of growth irregularities and abnormalities in marine biota subject to long-term natural seepage. The study site is Coal Oil Point, California, and the present contractor is the Allan Hancock Foundation of the University of Southern California (USC). Findings to date indicate no adverse sublethal effects on selected benthic organisms and no relationship between PHCs in sediments and either the biomass or the abundance or presence/absence of any group or organisms.

Another API-sponsored project at USC involves the development of a computerized model capable of describing and perhaps predicting the actual exposure of marine animals at all depths to major PHC fractions found in an oil spill. Work on this contract is scheduled for completion in early 1976; the final report will include a description of the oil spill simulation model and validation of the model. For validation, USC investigators have been comparing model predictions against known spill data from Santa Barbara, controlled experimental spills in the Chesapeake Bay, and the accidental spill in Chedabucto Bay, Nova Scotia (1970). API reports that some impressive correlations between computer predictions and actual spill trajectories have been obtained.

The JBF Scientific Corporation is under contract to API to conduct four planned oil spills about 60 miles off the coast of Massachusetts. The objective is to obtain physical and chemical data on the dispersion of oil slicks in the water column by natural forces. This project supplements the USC oil spill model project. It will provide information for model development and verification in areas previously identified by the USC researchers and data-deficient.

API also sponsored a followup study of the West Falmouth area affected by the 1969 spill of No. 2 fuel oil. The contractor is the Woods Hole Marine Biological Laboratory. This study has shown that the bottom fauna have substantially recovered, although the number of species in the affected marsh area is lower than at the control marsh. The offshore area is nearer to total recovery than the marsh areas.

HEAVY METALS

Environmental stress caused by the introduction of heavy metals can alter the ecosystem and limit the recruitment, abundance, and distribution of living marine resources. Heavy metals can kill marine organisms or so contaminate them that they are a hazard to human health. To provide a basis for environmental management, it is necessary to learn what levels of heavy metals can cause mortalities and what levels limit development, growth, reproduction, and other physiological processes at various stages in their life history. Heavy metals that accumulate in various tissues and organs are of concern to humans who eat these marine species.

Research on physiological and biochemical effects

National Oceanic and Atmospheric Administration

Studies were underway in the laboratory to determine how heavy metals—such as arsenic, cadmium, copper, mercury, nickel, zinc, and silver—affect the normal life functions of certain marine species. These experiments, when correlated with contaminant levels in the environment, will indicate the marine animals that are extremely sensitive to minute amounts of metals and also the animals or communities that are likely to flourish where traces of specific metal contaminants are present. Another area of research interest was the long-term effects that heavy metals may have on marine organisms.

Experiments to measure physiological and biochemical changes in various species of marine shellfish, including lobsters, and fish common to the Atlantic Coast have been continued. Results have shown, for example, that different metals have different effects on different early life stages of the American oyster. Eggs are more sensitive than larvae to mercury and silver, less sensitive to copper and zinc, and equally sensitive to nickel. On the other hand, juvenile bay scallops are less sensitive than oyster eggs to mercury and silver, but more sensitive to cadmium and arsenic. This shows the need to understand how heavy metals affect all life stages of a number of species before firm conclusions can be drawn regarding the effects of heavy metals on marine ecosystems. When exposed to low concentrations of heavy metals for 1 to 4 months, a number of juvenile and adult fish, mollusks, and crustaceans showed differential stress response. These responses included altered rates of oxygen consumption, biochemical dysfunction, changes in blood components, and rapid uptake of metals (silver, cadmium, and mercury). Histopathological examinations of certain fish species were also undertaken.

Environmental Protection Agency

Experiments have been made to assess the effect of an array of metals on early life stages of several marine organisms. Differences in toxicity of the same metal appear within the same groups of organisms and between groups. Studies also have been made to determine cadmium and copper uptake by shellfish in long-term exposure tests.

National Science Foundation

NSF also supports research on the biological effects of heavy metal pollutants on marine organisms and ecological communities. Both laboratory and field experiments are included. Laboratory work is concerned mainly with effects of pollutants on single classes of organisms. Field studies are integrated into the Controlled Ecosystem Pollution Experiment of IDOE. This cooperative research project of international scope involves trapping water and natural communities in large plastic enclosure (10 m diameter by 30 m deep) and assessing the effects of added pollutants on marine ecosystems—the long-term effects influencing the stability of marine populations. The initial CEPEX enclosures are in Saanich Inlet, Vancouver Island, British Columbia. CEPEX is described under International Marine Pollution Research Activities.

Metals in seafood and sediments

Federal agencies and university researchers are making considerable effort to quantitate how much trace metals humans contribute to the marine environment and to evaluate the potential threat of these metal additions to marine organisms and the people who consume them. A number of programs are measuring concentrations of trace metals in marine organims. Some of these are monitoring programs and others are basic research efforts to understand the cycling and transfer processes of metals in the marine environment.

National Oceanic and Atmospheric Administration

NOAA has the major Federal Government program now underway to determine baseline levels of metals in seafood. This effort,

known as the Resource Survey, has been underway since 1971. The goals and objectives of this program are to:

1. Define occurrences of microconstituents (trace metals) in marine fish and fishery products,

2. Assess significance of the amount of metals in seafood in relation to human consumption,

3. Influence the establishment of sound regulation or guidelines, and

4. Establish an information base to assist other organizations with related responsibilities.

Initially, a preliminary resource survey was made to measure the concentrations of 15 elements (mercury, lead, cadmium, arsenic, selenium, silver, chromium, copper, zinc, nickel, molybdenum, vanadium, manganese, antimony, and tin) in muscles and livers of 204 species of marine fish and shellfish (85% finfish and 15% shellfish) from seven major geographical areas (North and Mid-Atlantic, South Atlantic, Gulf of Mexico, California, Pacific Northwest, Alaska, and Hawaii). Data from this survey will identify potential problems relative to certain trace metals in particular species and geographical areas. The second phase of the study—detailed surveys—has been initiated to confirm the extent and nature of potential problems. These surveys will determine: (a) levels of trace metals; (b) their relationship to size and sex of organisms, season, and locale; and (c) the necessity or possibility of managing the problem. The third phase of the program will be to relate consumer intake of trace metals in fish to consumer intake from other food sources. All samples for the first goal have been collected, and 85 percent of the analytical data have been collected. An interim report of the resource survey, which has just been released, describes the approach used in planning and carrying out this survey and includes analytical data representing approximately the first third of the survey samples assembled.

NOAA personnel participated in two dumpsite studies in 1974 and 1975 to collect sediments and deep-sea fish samples for heavy metal analyses in the vicinity of Deepwater Dumpsite 106. This site, located 90 nautical miles east of Cape Henlopen, Delaware, in water depths of about 2,000 meters, is used for the disposal of industrial wastes.

Sediment samples were collected and analyzed for heavy metal content. It was determined that at most stations having water depths of about 2,000 meters there was relatively little heavy metal present when compared with sediment samples collected inshore in polluted areas such as the New York Bight Apex. However, it was noted that these sediments had somewhat more heavy metals than sediments collected from the outer reaches of the continental shelf in the Bight. This may be due either to dumping operations or to materials being carried down the Hudson Shelf Valley.

The data from the two cruises provide information on the distribution of heavy metals in sediments and fishes from deeper waters. It is possible that future industrial and domestic wastes may be dumped at sites beyond the continental shelf-slope break. The information at hand provides a preliminary baseline.

Environmental Protection Agency

EPA is sponsoring studies to determine the influence of dredged material and sediment pollution on trace metal assimilation by organisms and to document the history of heavy metal pollution in estuaries. EPA has also issued a grant designed to answer specific questions concerning the fate and impact of trace metal pollution in marine waters.

Interagency Program

The National Shellfish Sanitation Program, conducted by a group of Federal, State, and private sector research organizations, is sponsoring a Chemistry Task Force which is attempting to establish environmental levels of four trace metals (lead, copper, zinc, and cadmium) in approved shellfish growing beds along the Atlantic, Gulf, and Pacific coasts of the United States and Canada. This represents an attempt to determine background concentrations of these metals in different growing areas so that metal contaminated shellfish beds can be readily identified. Once this is known, efforts can be made by appropriate State and Federal agencies to identify and eliminate sources of unnatural inputs of these metals to these growing areas. To accomplish this task, standard procedures have to be followed by all participants. During 1975 the Task Force published a brochure entitled *Chemical Procedures, Collection, Preparation, and Analysis of Trace Metals in Shellfish.* (Department of HEW publication #FDA 76-2006). These methods will be used by all participants to (1) establish background levels of trace elements and (2) identify areas where contamination may have occurred.

Pollutant transfer studies

National Ocean and Atmospheric Administration

Research is underway in NOAA to determine (1) the cycling of heavy metals in estuaries and coastal waters of the Southeastern United States and (2) the effects of these metals on biota common to the region. Research completed to date includes studies on the influence of environmental variables on the concentrations of trace metals in marine organisms and on the flux of trace metals in the estuarine environment. In addition, research began during the past year to determine the lethal and sublethal effects of copper on marine biota. This work is directed toward determining which chemical forms of copper are most toxic to marine organisms in the estuarine environment and then designing bioassay experiments in the laboratory which will expose the test organisms to these specific chemicals.

SYNTHETIC HYDROCARBONS

Insecticides, herbicides and polychlorinated biphenyls (PCBs) are synthetic hydrocarbons that threaten the marine environment. Many such compounds persist in the environment and are toxic at low concentrations. These chemicals, particularly the chlorinated hydrocarbons, accumulate in aquatic food chains and could adversely affect not only such organisms as fish and fish-eating birds, but also man, the ultimate consumer.

The EPA is carrying out a major research program on the effects of synthetic hydrocarbons on marine ecosystems at the Gulf Breeze Environmental Research Laboratory (GBERL) in Gulf Breeze, Florida. Activities at GBERL during FY 1975 included: (1) evaluating the impact of pesticides and PCBs on marine ecosystems and continuously updating methods to appraise overall ecological effects; (2) determining the pathways and mechanisms of microbial degradation of pesticides in the marine environment; (3) assaying new pesticides and pesticides involved in EPA's reregistration process for effects on specific marine organisms and populations of "indicator" species; and (4) establishing water quality criteria for pesticides and PCBs by utilizing information obtained in items listed above and by studying effects of the chemicals on sensitive life stages and behavior of selected organisms. Specific research projects and findings during FY 1975 are described in the following.

The chemical, toxaphene, has been the most widely used insecticide in the United States in recent years, accounting for over 50 percent of total organochlorine insecticides applied to crops. Even greater amounts of toxaphene may be applied in the future because of restrictions on related insecticides such as DDT, aldrin, dieldrin, heptachlor, and chlordane. Increased usage of toxaphene may present environmental problems. For example preliminary data obtained by GBERL during FY 1975 indicate that newly hatched sheepshead minnow fry, exposed for 28 days to five concentrations of toxaphene ranging from 0.2 to 2.5 ppb suffered potentialy harmful effects. The fry survived exposure to 1.1 ppb, but died when exposed to 2.5 ppb. Hatching time and growth appeared to be unaffected by 0.2 to 2.5 ppb of toxaphene. Fry bioaccumblated toxaphene 6,100 to 14,000 times the concentration measured in water.

Research has continued to assess the potential effects of other pesticides such as heptachlor, hexachlorobenezene (HCB), and DDT. Acute bioassays to determine effects of heptachlor on various life stages of the sheepshead minnow indicated that the 96-hour LC_{50} for fry was 3.6 ppb; for juveniles, 10.5 ppb, and for adults, 16.3 ppb. Tentative analysis of data from tests that included the reproductive portion of the life cycle indicates that safe concentrations were 18 to 27% of concentrations lethal to half of the juvenile fish in 96-hour tests.

Twenty-eight-day bioaccumulation studies were conducted to determine the effects of HCB on the American oyster and the pinfish. Each test was followed by a 28-day depuration period to record the rate of loss of HCB's four isomers. Maximum concentration factors were 210 in oyster meat and 125 in pinfish muscle. After a 7-day depuration period, no HCB was detected in oysters or pinfish. A 96-hour flow-through bioassay was conducted to determine the IC_{50} of DDT to juvenile brown shrimp. These data were effects of proposed DDT applications to crops in Louisiana. The LC_{50} for DDT in this test was 0.14 ppb.

The recent discovery that wastes from a manufacturer of the chlorinated hydrocarbon insecticide Kepone have contaminated the lower James River, necessitated a new research effort to evaluate the impact of this pollutant on this estuarine system. Experiments will attempt to reveal the level of concentration of Kepone in organisms that are commercially harvested in the James River estuary. These organisms constitute a direct route of this potential carcinogen to humans. Studies will also focus on the loss of Kepone from organisms transplanted to clean water, the direct toxic effects of Kepone on individual organisms, the potential ecological hazards in the James River estuary, and the fate and persistence of any harmful compounds in the estuary. These data will aid in the assessment of the problem and in developing effective corrective action.

Another group of synthetic chlorinated hydrocarbons, PCBs, are manufactured by one company in this country. These complex mixtures have been used as transformer oils, condenser dielectrics, plasticizers, printing components, and other industrial products. They are stable and persistent and, like DDT, are widely prevalent in the environment. They are found in ocean water, sediment, and biota. In the United States, about 40 million pounds of PCBs are produced each year.

Tests indicate that all PCBs are toxic to certain estuarine organisms and their degree of bioaccumulation is significant. A study is underway to determine the amount and modes of input of PCBs in the Los Angeles Bight. Preliminary results indicate that atmospheric fallout is a significant source (up to 30%) of the local input of PCBs. The rate of input and solubilities of one tested form differ from those of other forms of PCBs. In addition, caged mussel experiments indicate that the rate of depuration of PCBs is approximately the same as the rate of uptake.

Recently, the U.S. manufacturer of PCBs voluntarily restricted their distribution. However, studies show that both freshwater

and marine organisms continue to accumulate these chemicals in their fatty tissues.

In the area of methodology for synthetic hydrocarbon research, it has long been recognized that long-term, sublethal exposures of organisms to pollutants provide valuable information in assessing the potential stress of contaminants to estuarine and marine organisms and ecosystems. Such studies have been limited by: the inability of many species to mature and reproduce under laboratory conditions; relatively lengthy time requirements for entire life cycles; the high costs of necessary environmental controls; and the lack of information on the nutritional requirements of larval stages.

Two recent developments may improve this situation. First, it has been determined that the sheepshead minnow, an estuarine fish of the Atlantic and Gulf Coasts, is suitable for both partial chronic and chronic (egg-to-egg) bioassays The fish is easily held at high population densities in the laboratory and produces numerous eggs. Generation time for this species is short (3 to 4 months) and its small adult size (average male length is 48 mm) provides for relatively inexpensive bioassays. The susceptibility of this species to organochlorine chemicals is similar to that demonstrated by other estuarine fishes. Tests utilizing this fish, therefore, should yield significant information on the effects of toxicants on the estuarine community.

Second, laboratory experiments conducted over the past several months indicate that small, estuarine shrimp-like crustaceans called mysids may function as reliable, practical bioassay animals for use in conducting life-cycle studies for the purpose of determining sublethal effects of contaminants. Based on tests using cadmium, the mysid demonstrated sensitivity to this toxicant an order of magnitude greater than previously exhibited by other estuarine biota.

Thus, in terms of laboratory maintenance, life-cycle time requirements, and representatives of response, the mysid appears to be an organism quite suitable for long-term bioassay studies. Its utilization apparently can conserve time and resources and aid in the establishment of water quality standards and effective water pollution control procedures.

NOAA's National Marine Fisheries Service conducted research to determine the levels of DDT and PCBs in three Pacific Coast species of fish (lingcod, albacore tuna, and striped bass) and one menhaden fish and products (meal, oil, solubles, and stickwater) from the Middle Atlantic, South Atlantic, and Gulf of Mexico. DDT and PCB levels in 58 out of 60 samples of the three Pacific Coast species did not exceed 1.0 ppm which is well below the Food and Drug Administration (FDA) action level for raw fish of 5.0 ppm for both compounds. A pronounced decrease in DDT and PCB levels in menhaden was noted over the 5-year period 1969–74. This decrease is probably due to the restricted use of DDT in agriculture and PCBs in manufacturing.

NOAA Sea Grant research on the environmental impacts of sythetic hydrocarbons has concentrated primarily in the effects of persistent chlorinated hydrocarbons (pesticides) on food chains in the Great Lakes. Scientists at the University of Wisconsin are analyzing the accumulation and impact of these compounds (i.e., DDT, PCB, DDE, dieldrin, aldrin, and HCB) and their major degradation products (metabolites) on phytoplankton and zooplankton in Lake Michigan. Several microbial strains in the sediments of the lake were found to actively dechlorinate or degrade the PCBs. A project just beginning is focusing on the effects of various PCBs on the morphology, development, and survival of lake trout. Early results suggest detrimental effects are substantial. In a more positive vein, another contaminant, 3-trifluoro-methyl-4-nitrophenol, has been deliberately placed into the tributaries of Lake Michigan in a successful effort to control the sea lamprey. PCBs have become a severe contaminant problem in Lake Michigan, with levels in some large lake trout and salmon reaching 50 parts per million (ppm), ten times the safe levels for consumption set by the FDA. Sea Grant scientists have found that salmon and trout concentrate PCBs at one hundred thousand to a million times the levels found in surrounding waters. In effect, the fish feed as the PCB sinks, taking in these compounds very rapidly and eliminating them very slowly. The compounds are taken up through the gills, fins, and skin.

Other Sea Grant-sponsored studies have examined the effect of PCBs on monkeys and have shown that animals fed half the recommended safe FDA levels in their diets (2.5 ppm) suffered severe health problems, developing acne, hair loss, swollen eyelids and lips, enlarged livers, and stomach uclers within two months. The infants of PCB-fed females are small and contain comparable levels of PCB in their fatty tissue. Detectable levels persist in both mothers and infants for 1½ years. Though man is not likely to consume this level of PCBs on a continuous basis in his diet, the research does raise questions about the safe levels set by the FDA since the money's metabolic pathways are similar to man's.

At its Great Lakes Fishery Laboratory in Ann Arbor, Michigan, the Fish and Wildlife Service determines the identity, severity, areas of distribution, and changing trends of contaminants (DDT, DDE, and PCBs) that are a potential threat to the fish and fisheries of the Great Lakes. FWS also determines the toxicity thresholds of contaminants in physiological and biochemical systems of the Great Lakes fishes and invertebrates.

The NSF/IDOE program is studying synthetic organic compounds in its pollutant transfer and biological effects programs. Light halocarbons, including Freon and dry cleaning solvents have been measured in air and in the surface waters along the coasts. The transport routes for heavier halocarbons including DDT, toxaphene, and PCBs are surface runoff, rivers, and the atmosphere, depending on their volatility. Toxaphene, a pesticide used in growing cotton, is presently transported to the Atlantic Ocean in concentrations 100,000 times greater than DDT. The biological effects of synthetic organic compounds are also being studied. The decreasing levels of DDT and PCBs off California are leading to better reproductive success of marine animals and birds. In the laboratory, different life stages of crabs and shrimp are being exposed to PCBs and polychlorinated naphthalene (Halowax) with deleterious effects at the 10 ppb level. The ability of marine bacteria to degrade PCBs is also being studied.

In summary, new information on the effects of synthetic hydrocarbons is becoming available, particularly in regard to single species. The introduction of these compounds into the marine and estuarine environments is being more stringently controlled. More information, however, is required before the total impact of these materials can be predicted and effectively controlled. Specifically, knowledge of the ecosystem response to synthetic hydrocarbons, both singly and in combination, must be broadened before the environmental stress caused by these compounds can be properly evaluated and controlled.

MAJOR REGIONAL STUDIES OF OCEAN POLLUTION

New York Bight

The New York Bight, a 15,000-square-mile area of the ocean extending from the tip of Long Island, New York, to Cape May, New Jersey, and out to the edge of the continental shelf, is the ultimate repository of about 4 million metric tons of industrial wastes and 5 million metric tons of sewage sludge annually from the New York/New Jersey metropolitan region. Although ocean dumping of industrial and municipal wastes accounts for a significant fraction of the contaminants entering the Bight, at least five other sources or pathways of pollutants are important. They are: sewer outfalls, dredging and dredge spoil disposal, land runoff, the Hudson and Raritan Rivers, and atmospheric transport.

In the early 1970s NOAA initiated the Marine Ecosystem Analysis (MESA) program, which consists of multidisciplinary investigations of the ecology of a given marine environment and the changes in that natural system which result from human activities and natural forces. The New York Bight was selected as the first U.S. coastal area to undergo a comprehensive study under this program.

In FYs 1974 and 1975 most of the resources of the MESA New York Bight project were directed to an investigation of the immediate problems of dumping of wastes in the Bight. However, work was also initiated to: (1) determine the effects of existing and projected pollution loads from the other major sources; and (2) investigate the nearshore ocean processes such as currents, wave patterns, and sediment movement in order to improve coastal zone management and coastal engineering decisions.

While ocean dumping is the most visible and probably most aesthetically displeasing activity contributing to the overall contamination of the New York Bight, it is only one of many contaminant sources. Sewage sludge provides a source of nutrients when dumped in the Bight, but the quantity introduced in this manner is small compared to the river input. Regarding heavy metals, MESA researchers have concluded that the Hudson and Raritan estuaries are the likely major sources of metals to the Bight, followed by the dredge spoil dumpsite. The exception to this is mercury of which 70 percent of the total input is attributed to shoreline wastewater discharges. Dumped sewage sludge contributes less than 6 percent of the heavy metal load. Unchlorinated municipal wastewater and urban runoff from combined sewer overflows contribute the bulk of the microbial load. There is no evidence of shoreward movement of dumped sewage sludge, and MESA scientists have concluded that, at present levels of sewage sludge dumping, there is no threat to shoreline communities. Nevertheless, some areas of the Bight are heavily polluted and large sectors are closed to shellfishing due to ocean dumping and other pollutant sources. The MESA project is sponsoring a study by Manhattan College on contaminant inputs to the New York Bight. A report from this study is expected to be issued in 1976.

Great Lakes studies

The International Field Year for the Great Lakes (IFYGL) is a joint United States and Canadian multiyear program that includes an intensive field study of Lake Ontario and its drainage basin. The 1-year data collection effort was completed in March 1973. Data on physical, chemical, and biological properties were collected from ships, buoys, towers, and aircraft by radars and rawinsondes and at meteorological and hydrologic stations.

The IFYGL studies were conducted on both a whole-lake scale and on a fine scale for the nearshore and selected tributaries to determine distributions and variability in specific sections of the lake. The whole-lake scale studies provide information on the balances of physical, chemical, and biological properties in terms of input, output, and storage. The fine-scale studies provide information on the mechanisms by which effluents are transported and distributed. Studies of harbors

and embayments are providing information on the fate of effluents discharged into these waters as a function of the physical characteristics of the shore area and the lake.

The IFYGL data and analysis results will provide a basis for determining the distribution and fate of pollutants in Lake Ontario. Mathematical models are under development and test to stimulate the important processes in determining the impact of man's activities on the lake's future state and its value as a resource for various uses. Much of the information collected during IFYGL may be applicable to the other Great Lakes.

The IFYGL Water Movement Project is investigating the water movements and mixing processes involved in the distribution and variability of pollutants. These studies include: analyses of physical properties, development of diagnostic and simulation models of the deep lake and coastal circulation, and the effects of diffusion and of internal and surface waves. Analyses of IFYGL data are yielding significant results on these physical parameters and the hydrodynamic models show promise of useful simulations.

The occurrence and accumulation of hazardous materials in the lake and the biotic system are being investigated through a series of transport pathway studies. Hazardous materials, such as radioactive materials, pesticides, organics, etc., were sampled on a limited basis to determine the magnitude of their input and very detailed mapping of chlorophyll *a* was undertaken on a weekly basis to measure the eutrophic status of the lake.

A fish survey was conducted during IFYGL as a first step in an ongoing program to guide management initiatives aimed at restoring the fish stocks of Lake Ontario and the other Great Lakes. Both nearshore and deep lake surveys were conducted to determine the species and distribution of fish still inhabiting Lake Ontario. A species distribution study has been completed and a long-period study of the relationships of the lake biota and the physical and chemical properties of the lake is underway.

Work is continuing on analysis of IFYGL data to provide descriptive summaries of the distributions and variability of measured parameters, statistical relationships of the parameters and processes observed, and simulation and prediction models of the physical, chemical and biological processes occurring in the lake. This analysis phase is expected to be completed in FY 1976. These products will have almost immediate utility in making decisions relative to use of the lakes as an effluent dumping ground, as a source of water for public and industrial use, as fish and wildlife habitat, and as a recreational resources. They also will increase our scientific understanding of the Great Lakes as a total system.

Another joint Canada-United States activity concerned with Great Lakes water quality is the implementation of the 1972 Great Lakes Water Quality Agreement. The Agreement establishes certain water quality objectives to be achieved by both countries. The International Joint Commisson (IJC), established in 1909, was designated by the two governments to coordinate activities under the Agreement. This task was delegated, pursuant to the Agreement, to the Great Lakes Water Quality Board, which is located at Windsor, Ontario. Basically, the mission of the board is to coordinate joint activities, monitor progress under the Agreement, report annually to the two governments on such progress, and make recommendations to help achieve the objectives of the Agreement.

In addition to the basic 1972 Agreement, the IJC was requested by the two governments to conduct studies of: (1) the water quality in Lakes Huron and Superior; and (2) pollution of the Great Lakes from agricultural, forestry, and other land use activities. The work of the Upper Lakes Reference Group was well underway in FY 1975 and the Group expects to issue its final report on pollution in the upper lakes to the IJC in mid-1976. The objectives of the Reference Group on Great Lakes Pollution From Land Use Activities are to:

Assess problems, management programs and research, and to attempt to set priorities on the effects of land use activities on Great Lakes Water Quality;

Inventory land use and land use practices, with emphasis on certain trends and projections to 1980 and, if possible, to 2020;

Study small number of representative watersheds to permit extrapolation of data to the entire Great Lakes Basin and to relate contamination of water quality which may be found at river mouths to specific land uses and practices; and

Diagnose degree of impairment of water quality in the Great Lakes, including assessment of concentrations of contaminants of concern in sediments, fish, and other aquatic resources.

This investigation is expected to require 5 years (1973–78).

INTERNATIONAL MARINE POLLUTION RESEARCH ACTIVITIES

Four major international cooperative programs of marine research are reviewed. Among these are the International Decade of Ocean Exploration (IDOE) Environmental Quality Program, the NATO Committee on the Challenges of Modern Society (CCMS), the Global Investigation of Pollution in the Marine Environment (GIPME), and the Interated Global Ocean Station System (IGOSS).

International decade of ocean exploration

The National Science Foundation's IDOE program supports basic research on ocean pollution. Projects study the movement of pollutants into the ocean, the effects of these pollutants on marine life, and geochemical indicators of ocean mixing and diffusion.

The Geochemical Ocean Sections Study (GEOSECS) effort began with collection of water samples at 121 carefully picked locations in the Atlantic and 130 locations in the Pacific. Scientists are now analyzing nearly 40 different geochemical features of these samples. This data will provide a better understanding of the diffusion of material in the oceans, the stirring and mixing that goes on in the deep ocean, and the exchange of water and gas with the atmosphere. Geochemists from 14 United States universities are taking part in GEOSECS. Scientists from Belgium, Canada, France, Germany, India, Japan, and the United Kingdom are also participating in the program, or are carrying out similar efforts coordinated by U.S. investigators. GEOCECS investigators are now preparing a final data report of shipboard analysis and several detailed geochemical atlases.

The main concern of the Pollutant Transfer Program is to find out how pollutants reach the ocean and what happens to them once they get there. The air is a major route for chlorinated and petroleum hydrocarbons and trace metals destined for the sea. Most of the airborne trace metals over the open ocean and Antarctica are from normal weathering of the earth's crusts. Concentrations of several trace metals (zinc, copper, antimony, lead, selenium, and cadmium), however, are far higher than those predicted to be of crustal origin.

The major routes for pollutant transfer to coastal waters are rivers and sewage and industrial outfalls. Wastes from these sources subject estuaries to the most severe man-induced stresses in the marine environment. Researchers at the Skidaway Institute of Oceanography are tracing iron, manganese, copper, cadmium, and mercury through salt marsh estuaries out to the continental shelf off the southeastern United States. On the west coast, scientists are trying to identify how lead in different chemical forms enters the Southern California Bight. They are now sampling dissolved and particulate lead in the ocean near sewage outfalls and in rain and storm runoff.

The Biological Effects Program is using laboratory studies to evaluate the effects of metals, petroleum, and chlorinated hydrocarbons on bacteria, phytoplankton, zooplankton and more complicated marine creatures. Scientists ran acute toxicity tests to find how sensitive various organisms are to specific pollutants. By reducing the fatal dosages the researchers can determine the effects of pollutants on important processes like respiration, reproduction, and photosynthesis.

In these preliminary tests, heavy metals (e.g., mercury) and chlorinated hydrocarbons (e.g., PCBs) were generally more toxic than petroleum hydrocarbons for most tested species. Crude oils from Kuwait and Louisiana, and Number 2 fuel oil were toxic to phytoplankton in extremely small concentrations (15–150 parts-per-billion).

The effects of pollutants on communities of organisms are the concern of scientists in the Controlled Ecosystems Pollution Experiment (CEPEX). Scientists from the United States, the United Kingdom, and Canada are studying the natural marine communities captured in large plastic enclosures. These large cylindrical bags (8 ft. x 52 ft.; and 33 ft. x 96 ft.) are suspended in Saainch Inlet, Victoria, British Columbia.

Planktonic organisms trapped inside the enclosures went through an ecological sequence common to waters surrounding the enclosures. Experiments using the smaller enclosures included measuring the effects of low concentrations of copper, mercury, and petroleum hydrocarbons. The results of the copper experiments showed that low concentrations (10 and 50 ppb) of copper caused an immediate mortality of plankton species, followed by the development of bacterial and plankton populations that appear to tolerate these low copper concentrations. The mercury experiments were similar to those of copper. Mercury, however, was toxic to these organisms at lower concentrations (0.25–1.0 ppb), and the effects were not as rapidly detectable as those of copper. One interesting result showed that bacteria exposed to either of these metals showed an increased tolerance to the other metal.

Preliminary findings from the petroleum hydrocarbon experiments were even more striking than those of the copper experiments. At low concentrations of PHCs (approximately 10–20 ppb) there was an enhancement of primary productivity among certain marine organisms. However, more recent studies have shown that water extracts of fuel oils in concentrations between 40–60 ppb caused a rapid population decrease followed by species shifts in these lower trophic levels. The research suggests that the PHC concentration in the water column decreases within a few days after introduction. This could be the result of the adsorption of these compounds to particulate matter, including dying plankton, which carries them to the bottom where they are degraded by bacteria in the sediment.

General implications resulting from the CEPEX project indicate that the effects of metals and PHCs on bacteria are transient and short-term due to rapid (days) adaptation of the populations to imposed stress. Phytoplankton, likewise, adapt to stress quickly (less than 15 days). Some physiological measurements (respiration, excretion rates) have shown very little relation to pollution stress in zooplankton. Other indices of metabolic well-being (egg production, feeding rate) are sensitive indicators of stress at sublethal levels. In general, small zooplankton, regardless of species, are more sensitive than larger organisms. The consequences of pollution on organisms at high

trophic levels, for the most part, remains unresolved.

In 1969 the North Atlantic Treaty Organization (NATO), accepting an initiative proposed by the United States, added a social dimension to its activities by establishing a Committee on the Challenges of Modern Society. The North Atlantic Council directed CCMS to examine ways to improve the exchange of information among member countries relative to creating a better environment and to consider specific problems of modern society with the objective of stimulating action by member governments.

CCMS identified oil spills as a problem of urgent concern and therefore gave it early priority. CCMS activities are organized by individual member countries of NATO, each acting as a "pilot" for one or more activities. Belgium accepted the role of "pilot" on the problem of oil spills, as a first step in the broader project of coastal water pollution. In late 1970 the Belgium Government convened in Brussels an international conference on oil spills. A significant outcome of this conference was a resolution by the NATO Foreign Ministers committing their governments to work toward the elimination of intentional discharges of oil and oily wastes into the sea by 1975, if possible, but no later than the end of the decade. This NATO/CCMS resolution was adopted as the goal of the Inter-Governmental Maritime Consultative Organization (IMCO) International Conference on Marine Pollution held in London in October 1973. The outcome of that conference was the International Convention for the Prevention of Pollution From Ships, 1973, which is now open for ratification.

Belgium, as "pilot country", together with the United Kingdom and the Netherlands, initiated a North Sea Pollution Project. The major effort in this project is development of a North Sea diagnostic model which was completed in 1975. The basic CCMS North Sea model has also been modified for application in the estuaries of the Tagus River in Portugal and the Po River in Italy. At the end of fiscal year 1975, the CCMS nations were considering possible followup efforts to the North Sea Pollution Project.

Integrated Global Ocean Station System

The Marine Pollution Monitoring Pilot Project is part of the Integrated Global Ocean Station Syntem program cosponsored by the Intergovernmental Oceanographic Commission of UNESCO and the World Meteorological Organization. The purpose of the Pilot Project is to bring together and coordinate the national activities of various countries, and to develop common methodology into a global organization on marine pollution monitoring.

Initially, the Pilot Project was to be limited to the monitoring and assessment of petroleum hydrocarbons, but with the possibility of adding or extending the project eventually to cover other pollutants. Oil was selected as the initial contaminant because: (1) it is recognized as a worldwide problem; and (2) many nations have an interest and varying capabilities to participate in some way.

An Operational Plan for the Marine Pollution Pilot Project was designed around the recommendations made at a Marine Pollution Monitoring Symposium and Workshop held in May 1974 at the National Bureau of Standards. Specifically, the Pilot Project was designed to collect data on the following:

Oil slicks and other floating pollutants visually observed from participating ships

Floating particulate petroleum residues (tar balls)

Dissolved or dispersed PHCs in surface waters

Tar on beaches

The areas that will be concentrated on initially by the Pilot Project are areas of the North Atlantic, waters around Africa, the Norwegian Sea, ocean areas around Japan, and the northern part of the Indian Ocean. These areas were selected to take into account the regions of offshore oil production, oil transportation routes, and ocean current patterns. However, observations from all ocean areas are encouraged. Data collected by participating countries will be made available to a spectrum of ocean users.

Efforts are underway to coordinate and encourage the participation of U.S. Federal agencies, academic institutions, and private industries in the Pilot Project. To provide for U.S. participation in the project, and to ensure compatibility with ongoing activities and programs, the U.S. plan will be implemented in phases. The first phase, which began in early 1975, consists of developing reporting procedures for visually observable pollutants, obtaining sampling informaton from ongoing programs, and receiving, archiving, and disseminating data.

To date, the primary U.S. effort in IGOSS has come from the Federal agencies, specifically NOAA, U.S. Navy (Military Sealift Command), and Coast Guard ships. The Coast Guard has provided data on visual observations of oil slicks and tar balls. For the past two years, Coast Guard vessels have been routinely sampling coastal surface waters while occupying Ocean Weather Station Hotel and on fisheries patrol. This program is an attempt to determine the source, quantity, and possibly the residence time of tar balls in the marine environment. The Coast Guard Research and Development Center has managed the Tarball Sampling Program and has developed a method for determining the areal distribution of tar at various locations in the open sea.

Data input from the private sector so far has been limited to that from Exxon Corporation which has supplied results of petroleum dissolved hydrocarbon analyses of water samples from its open ocean sampling program.

The IGOSS Marine Pollution Monitoring Project did not get underway until late in FY 1975 and not many observations were reported in that year. However, the project has demonstrated that some cooperation could be obtained at the national level for a pollution monitoring program. Probably more important, the project has established a reporting network for the receipt, analysis, and dissemination of marine pollution data.

Global investigation of pollution in the marine environment

GIPME is a program of the Intergovernmental Oceanographic Commission whose purpose is to provide an international framework within which national and regional programs on various aspects of marine pollution may be coordinated in order to contribute to a continuing evaluation of global marine pollution problems. This goal is to be achieved through strategies outlined in the Comprehensive Plan, the first steps of which are to conduct baseline surveys to acquire data on pollutant inputs, distributions and pathways, and to promote research on transfer processes (including atmospheric transfers) between major reservoirs and the effects of pollutants on marine ecosystems. The coordinating body for GIPME is the International Coordination Group (ICG).

The ICG held its Second Session (GIPME II) at the United Nations headquarters in New York, July 15–19, 1974, and approved a draft plan for implementation of GIPME. Proposed at the session, was the establishment of a Working Committee for GIPME. Its tasks would be to: (1) revise and update, when necessary, the implementation plan for GIPME: (2) develop and maintain an up-to-date comprehensive statement of the "health of the oceans"; (3) coordinate those GIPME projects requiring concerted action by the member states; and (4) facilitate and expedite, when necessary, international arrangements for field and laboratory studies conducted under the auspices of GIPME. It was recommended that this proposal be considered at the IOC's Ninth Assembly to be held in late 1975.

The Third Session of the ICG (GIPME III) was held in Paris during the period May 28 to June 4, 1975. At that session the ICG considered (1) further modifications to the Comprehensive Plan, and (2) a draft report of an IOC/ICES working group on baseline study guidelines. The latter document will, once it is approved, serve as a common international framework for conducting marine baseline investigations.

Mr. HOLLINGS. Mr. President, not too long ago, the Senate approved S. 682, a bill to strengthen U.S. vessel and tanker safety laws. During consideration of that legislation, a jurisdictional objection to title II of that bill was heard. Members of the Committee on Environment and Public Works claimed jurisdiction over subject matter relating to ocean pollution research and monitoring.

In an effort of accommodation, the Committee on Commerce, Science, and Transportation agreed to remove title II from the bill, introduce it as a separate piece of legislation, and have that new bill referred to the Committee on Environment and Public Works for not to exceed 30 days. This has occurred, and S. 1617 is now pending before this body once again. The Committee on Commerce, Science, and Transportation, with the concurrence of the Committee on the Environment and Public Works, is asking for passage. We feel that it is terribly important that this occur.

The Commerce Committee responded quickly to the *Argo Merchant* incident of last December. Besides focusing on preventative measures, the committee sought information on the effects of oil spills on the marine environment. What we discovered was that little was truly understood about the effects of oil spills and that little Government research into the question was going on. Oil industry studies claimed that oil is "good for fish"; conservationists say that oil is devastating to marine life. And the researchers say that more study is needed to draw any final conclusions, especially about the long-term effects of oil spillage.

The committee staff then researched various recent reports to determine the level of government effort to understand the effects, fates, and inputs of oil in the marine environment. The following documents were used:

Petroleum in the Marine Environment; National Academy of Sciences; 1975.

Sources, Effects, & Sinks of Hydrocarbons in the Aquatic Environment; The American Institute of Biological Sciences; 1976.

Hydrocarbons in the Ocean; National Oceanic and Atmospheric Administration; 1976.

Coastal Effects of Offshore Energy Systems; Congressional Office of Technology Assessments; 1976.

The *Argo Merchant* Oil Spill—A Preliminary Scientific Report: National Oceanic and Atmospheric Administration; 1977.

Report to the Congress on Ocean Pollution, Overfishing, and Offshore Development; National Oceanic and Atmospheric Administration; 1976.

As a consequence of this research, the committee concluded that: First, very

little research money is directed toward understanding the unknowns of oil pollution effects; Second, cooperation and planning between Federal agencies is virtually nonexistent; Third, short-term budget objectives often squeeze out meaningful long-term research; and Fourth, the Office of Management and Burget plays a far too powerful role in making research decisions although that agency does not coordinate its own budget policies with regard to ocean pollution research.

Therefore, title II of S. 682 was written to attack the weaknesses in the system and develop a more comprehensive program of ocean pollution research and monitoring. As written, the proposed legislation calls upon the President's science adviser to assist in drawing up a research plan. The National Oceanic and Atmospheric Administration continues in its role as lead agency for ocean research, and additional research authority is provided for that agency. Finally, the legislation does not take away the authority of other Federal agencies to do mission-oriented oil spill research. For example, S. 1617 would not affect the ability of the U.S. Coast Guard to research oil spill recovery or containment techniques or equipment.

The purpose of S. 1617 is to fill the gaps in research and to coordinate all Federal efforts, while eliminating unnecessary duplication. We also hope to start a meaningful research program which is not subject to the peaks and valleys of OMB budget decisions.

To those of us interested in a strong ocean program, ocean pollution and research presents a significant test case. Great pressures from other agencies and departments are pushing for miniocean programs in each and every agency in this Government. In October of 1975 the General Accounting Office reported to the National Ocean Policy Study that marine science activities and oceanic affairs are being conducted in the Federal Government by 21 organizations in 6 departments and 5 agencies. In 1973, there were 4,020 marine research projects sponsored by 10 of the 11 Federal agencies and departments.

The National Oceanic and Atmospheric Administration was created in 1970 to be the lead Federal agency for ocean programs. Instead of allowing every Federal agency to develop oceanography programs as extensions of their land activities, reorganization plan No. 4 sought to achieve economies of scale by creating one ocean agency. Ocean expertise was to be built up in NOAA and drawn upon by other agencies on an "as needed" basis.

Unfortunately however, as the 1975 GAO report shows, other agencies have continued and expanded their ocean projects. For example, the Department of the Interior is running an ocean environmental baseline program being undertaken in areas of the Outer Continental Shelf slated for new oil and gas development. However, much of the baseline studies have been undertaken by the National Oceanic and Atmospheric Administration by contract with the Department of the Interior. In short, the Interior Department has developed an ocean program of its own but must rely on that already existing in NOAA anyway. It does not make sense. Other agencies are doing the same or developing their own programs, and not relying on NOAA.

The Office of Management and Budget is no help in controlling the growth of duplicative ocean projects outside of NOAA. Small ocean-related efforts are buried in larger departmental programs. Yet in NOAA, all ocean projects are "outfront," visible for the arbitrary reduction. In addition, there is no OMB analysis across agency lines to eliminate duplication. If it falls generally within an agency's mission, it can be approved. On the other hand, those who review NOAA's budget are ever-mindful of expanding ocean programs and projects. So while one budget examiner keeps the NOAA ocean budget down, other budget examiners are allowing a proliferation of ocean projects throughout the Government. No effort at consolidation or coordination is undertaken. The broader goal of reducing conflicting Government programs is sacrificed on the alter of narrow budget review. This is certainly something the President should look at before relying on OMB advice.

We strongly believe that S. 1617, if enacted, will provide a process for fairly examining ocean pollution research and monitoring in the Federal Government. The suggestions in the bill are the result of continual study by the Committee on Commerce, Science, and Transportation since the National Oceanic and Atmospheric Administration was begun. Examination of such issues was mandated by Senate Resolution 222 which created the National Ocean Policy Study. Because of the expertise in the Commerce Committee, the Senate gave general ocean policy jurisdiction to our committee. That authority includes jurisdiction over ocean pollution questions.

The April issue of the NOAA magazine contains a very lucid article describing the research efforts of NOAA in trying to understand the effects of the *Argo Merchant* oil spill. I ask unanimous consent that the article, in its entirety, appear at this point in the RECORD.

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

NOAA AND THE NANTUCKET OILSPILL

(By Roland D. Paine)

At 7 a.m. Wednesday, Dec. 15, 1976. the tanker Argo Merchant, carrying 7,700,000 gallons of heavy No. 6 fuel oil, ran aground 29 nautical miles southeast of Nantucket Island. At 1 p.m. that day Elaine Chan of the Environmental Data Service was notified of the grounding and of the possibility that a major oil spill could occur. By 9 p.m. she and Gary Hufford of the Coast Guard Research and Development Division, Groton, Conn., had arrived in Hyannis, Mass., and established the headquarters of the NOAA/Coast Guard Spilled Oil Research (SOR) team.

Meanwhile, that same afternoon:

Craig Hooper of the Environmental Research Laboratories, SOR Program Director, packed his gear and boarded a plane at Boulder, Colorado;

Dr. James Mattson, who like Chan is with EDS' Center for Experiment Design and Data Analysis (CEDDA), sauntered out of a law examination in Orlando, Fla., picked up a telephone message, and hurried north;

Dr. Peter Grose of CEDDA interrupted a long-planned family Christmas trip, collected suitcases and scientific instruments, and started for Boston;

Sue Lease of ERL/Boulder, who was on her way to Juneau with equipment for an Alaska-based oil spill team, was located in Seattle and turned around;

Anthony Tancreto, Meteorologist-in-Charge of the National Weather Service office in Boston, issued the first of innumerable special marine forecasts directly to the Coast Guard.

The following morning Hooper, Mattson, and Grose met in Boston's Logan Airport, where they were given an airline flight lounge to use as telephone headquarters. By 1 p.m. they too were in Hyannis. Lease joined them two days later.

The SOR team had been designed by Hooper as a quick-response unit, and, holidays notwithstanding, its members reacted as planned. During the succeeding days the original group was joined by many other people from NOAA, the Coast Guard, the State of Alaska, and colleges and universities. All were eager to help monitor what was to become one of the largest oil spills in U.S. history, and track and assess its potential for environmental damage. Averaging about 15 people, and numbering at times as many as 25, the team worked for more than three weeks, through Christmas and the New Year, finally tapering off on January 9, 1977, to a small monitoring group of five.

The notion of quick-response teams to carry out research on oil spills arose as a result of work NOAA is doing for the Department of the Interior's Bureau of Land Management. In May 1974 BLM asked NOAA to undertake research leading to an environment assessment in the offshore waters of Alaska, in anticipation of future oil and gas lease sales and subsequent development. NOAA established an Outer Continental Shelf Environmental Assessment Program (OCSEAP) at its Boulder research laboratories to manage the program.

Two major objectives of the project are to find out what influences the fate of spilled oil on the surface of the water, in the atmosphere, and in the water column; and to determine the physical and chemical changes in the oil slick as time passes. OCSEAP initiated an extensive series of studies of these problems, involving both observation of actual spills and computer modeling of oil spill behavior. The research is aimed at producing models by which the direction and speed of oil movement during future spills, and the impact of the oil on the immediate environment, can be predicted, under a variety of environmental conditions.

All this requires that, when an oil spill occurs, somebody—several somebodies—must be prepared to drop routine work, interrupt personal plans, get to the scene as quickly as possible, and study—carefully and scientifically—just what is happening.

OCSEAP, under Hooper's leadership, began to form teams to accomplish this—four of them, two in Alaska, one in Seattle, one in Washington, D.C., and with a small backup group in Boulder. The research capabilities of ERL and the data management capabilities of EDS made it natural that the cadre of the teams were provided by these two organizations. The State of Alaska and the Coast Guard also provide team members, and close liaison has been established with the Coast Guard's National Response Center in Washington.

Equipment packages were assembled containing supplies sufficient for at least 48 hours of oil spill tracking—specially modified cameras, drift cards printed in three languages, inflatable markers, sample bottles, current probes, and many other items.

They were to be kept readily accessible at each of the four locations. This was the equipment that Sue Lease was taking to Alaska, until the call came that sent her to Massachusetts instead.

So when Elaine Chan received a telephone call on Dec. 15 from Yates Barber of the National Marine Fisheries Service, telling her that a major oil spill was impending, the mechanism was in place and the team members trained. Meeting the test that was to follow, the severest yet faced, required almost the full strength of all four oil spill teams plus major assistance and cooperation from many other people and organizations, within and outside NOAA.

In the cold dawn of Dec. 16 Chan and Hufford took off in a small aircraft that they had hastily chartered upon their arrival in Hyannis the previous evening. Visibility was about 1000 to 1200 feet, the tanker was leaking oil, and her starboard side was awash. Chan and Hufford took photographs, observed the leaking oil, and dropped probes to obtain information on surface currents in the vicinity of the grounded tanker.

Below them were the Coast Guard cutters Sherman and Vigilant, and two Coast Guard helicopters putting pumps, fuel bladders, and other equipment aboard the Argo Merchant. The Coast Guard's Atlantic Strike Team was aboard the tanker completing removal of the crew and continuing efforts to try to refloat the ship.

"The Coast Guard directed air traffic at the scene, and was immensely cooperative in helping us get our work done," said Chan. "We were able to deploy one current probe very close off the starboard bow of Argo Merchant. As a bit of luck, too, right after the two die markers surfaced the Vigilant moved between them, and since we knew her length we had a perfect scale for our current measurements."

They observed the oil coming from the ship, and noted that it was floating all around the tanker instead of trailing off in one direction. "This indicated to us that the oil was under tidal current influence," Chan said.

Hooper, Mattson, and Gross came in from Boston shortly after noon, and in the afternoon made their first aerial reconnaissance of the extent of the slick. That evening the five team members went to the Coast Guard air station at Otis Air Force Base, to confer with the Federal On-Scene Coordinator and to be briefed on the operational situation. Hopes were high that enough oil might be pumped out of the ship to refloat her, and the team members thought that they might get home for Christmas.

But the weather continued to worsen. That evening the Coast Guard lost the battle of the pumps, and had to abandon ship. "They lifted 16 people off the Argo Merchant by helicopter in gale force winds, at night," said Mattson. "The Coast Guard helo pilots are tremendous—the support they gave us throughout the whole operation was almost unbelievable."

The SOR team received an unexpected and welcome addition at the time of the visit to Otis, in the person of Joseph Deaver, Coast Guard oceanographer, who was engaged in a long-term aerial survey of the Gulf Stream. Forced into Otis by the foul weather, he promptly joined up, staved with the team for three weeks, and made almost daily flights in a Coast Guard HU-16 seaplane to chart the oil spill areas and obtain surface water temperature data.

During the day team members found time to telephone Government agencies and academic institutions in the area with urgent requests for research ship time, and the first to respond were the Woods Hole Oceanographic Institution and the University of Rhode Island. On Dec. 17—a nasty day with a heavy overcast and rain showers alternating with snow—Hooper, Mattson, and Chan went down to Falmouth, where late in the afternoon they briefed WHOI staff members on the situation and on their needs. Much later that evening, back at Hyannis, they met with Dr. Mason Williams and Dr. Jamse Quinn of the University of Rhode Island, talking and planning until well into the morning hours for a later cruise by URI's ship Endeavor.

As a result of the afternoon meeting the Woods Hole Oceanographic Institution made its research vessel Oceanus II available, called the ship back to port, installed new scientific gear and a new scientific team, and sent her out to conduct the research agreed upon with the SOR team. Dr. Jerry Galt, a physical oceanographer with NOAA's Pacific Marine Environmental Laboratory, flew in from Seattle on Saturday to join the team and departed on the cruise on Monday. His quick response, incidentally, meant that he missed seeing his sister, who lives in Taiwan and had come to Seattle to spend the holidays with him.

Dr. John Milliman of WHOI was chief scientist for the Oceanus II cruise, which included several other top WHOI scientists—Drs. John Farrington, John Teal, and Howard Sanders, Richard Jadamec of the Coast Guard research and development center in Groton responded to a telephone call and also joined the cruise. He is experienced in taking sterile bag samples, lowering the samplers through the oil slick, obtaining water samples below it, and then bringing them back up through the slick without contaminating them. Jadamec later analyzed the water and sediment samples taken by Government and university ships during the spill.

The ship occupied three scientific stations northeast of the known spill area. Sediment samples were taken for baseline information in case oil sank to the bottom with consequent degradation of the environment of bottom-dwelling organisms, and water samples for hydrocarbon analysis were taken at three depths at each of the stations. Even though foul weather, with blowing snow and 20 foot seas, forced an early halt to the cruise, it proved to be very helpful to the SOR team and to other scientists working on problems of the oil slick.

By Saturday, Dec. 18, hard aground on the rocky shoal, Argo Merchant was beginning to show signs of the battering she was taking. The Coast Guard reported her listing at 20 degrees, with geysers of oil shooting upward, large amounts of oil spilled, and a heavy oil plume extending 7½ miles from the vessel. An SOR team overflight showed an oil slick extending seven miles to the northwest, reaching toward the beaches of Nantucket Island. Oil "pancakes"—thick, flat, cohesive masses of oil floating amidst the thinner slick—were observed 27 miles to the east, and team members measured surface currents in both areas with air-dropped probes to get a better understanding of the forces working on the oil, and to enable them better to predict further oil movement.

By the following day the slick stretched out from Argo Merchant in a huge horseshoe, 36 nautical miles long. The Coast Guard reported that an estimated 1.5 million gallons of oil had entered the sea, and that the tanker was settling into the sand. Huge supertanker fenders were rigged alongside the ship that day, by an Army "sky crane", with the hope of taking off the oil.

The NWS special marine forecasts begun by Tancreto the first day were invaluable tools for the Coast Guard. Every six hours they came, night and day, predicting wind speed and direction and sea state.

SOR team members made overflights by helicopters and chartered aircraft, measuring currents, sampling the oil, mapping the slick, and measuring the difference in velocity between water and oil. The National Aeronautics and Space Administration and the Environmental Protection Agency also conducted overflights of the scene. The NASA aircraft took false-color infra-red photographs of ship and oil slick that were soon provided to the SOR team for their use.

During the four-day period ending on Sunday Professor Jerome J. Milgram and Dr. E. Kern of the Massachusetts Institute of Technology Sea Grant program visited the Argo Merchant to study first hand the dispersion, spreading, and mass transport of the oil slick, and to obtain oil and water samples for laboratory analysis. Milgram was able to take one 16 ounce sample, which he shared with the University of Rhode Island. It was later learned that there were two No. 6 fuel oils (the so-called "Bunker C" heavy industrial oil) in the cargo of Argo Merchant, 50,000 barrels of one and 139,000 barrels of the other. Their viscosities are very similar, and the team is trying to find out which cargo was in which tanks, to further identify the sample taken by Milgram.

By the time the weekend was over, men and women from the four oil spill teams, and many other interested people, had responded to calls for aid and flocked to Hyannis to help. Most of an upstairs wing of the Holiday Inn had been taken over for the project. A large room, with beds removed, served as operations headquarters and message center. It was provided with four telephones, bulletin boards, a conference table, and a davenport and armchairs. Dresser drawers, neatly labeled, contained cameras and film, drift cards, water samplers, and other equipment. A small adjoining room served as secretarial headquarters, and also contained a plotting table.

A few doors away Grose and the Environmental Data Service group established a small data collection office, with light table, charts, files, and supplies. Adjoining it, Rosalie Redmond of ERL/Boulder operated a magnetic-card automatic typewriter and associated equipment. Most of the scientific equipment, when not in use, was stored in closets and on the floors of rooms occupied by the team members responsible. For several days a stairwell that housed vending machines and an ice-maker also served as storage room for a bright orange data buoy.

Early each morning there were hasty conferences and briefing sessions, as team members prepared for their day's work, checked the equipment they would need, and made ready for flights in Coast Guard helicopters or fixed-wing aircraft, or in smaller planes leased by the project or provided by contractors. As the groups left in twos and threes, those remaining would begin to use the telephone—efforts to locate equipment or services from local merchants (who proved to be immensely cooperative and cheerfully ready to extend instant credit), calls to NOAA headquarters and installations around the country for specialized assistance, liaison with the Coast Guard, consultations with scientists who might offer helpful suggestions, and so on. Incoming calls kept them members busy answering queries about the latest position of oil slicks, potential danger to fish or marine mammals or beaches, and the most recent weather at the site.

A couple of transplanted meteorologists, Katherine Kidwell and John Carlile, both of EDS, made regular overlays of a National Ocean Survey chart of the area, so that team members and others could instantly check the current position of the oil slick and its movement from the time the ship went aground. Carlile also kept a complete photographic file, identifying each slide by date and with other pertinent information, thus providing a continuous record of the spill.

Late in the afternoon those returning from flights or ship cruises would phone their most recent observations, and as evening approached they would drift in, brief Grose and Mattson, provide data and photo rolls to the EDS office, write their reports, and relax to exchange information and experiences with others.

Frequently in the evening an overall de-

briefing and summing up of the day's activities would take place, and plans would be made for the next day's work. Coast Guard Capt. Lynn Hein, Federal On-Scene Coordinator, and Cdr. Barry Chambers, head of the Atlantic Strike Team, were participants in many of these conferences.

The basic scientific objectives had been laid out in some detail three months before. After consultations among the individuals initially identified as members of the teams, an operations plan was agreed upon that spelled out organization, operational procedures, equipment, and scientific observations and measurements to be made. Primarily, said the plan, teams would measure the physical movement of various classes of oil at sea under diverse oceanographic and meteorological conditions, the purpose being to test existing oil spill trajectory models.

The team later noted: "While there are available many time-series photographs of spills in cold water environments, these spills have not been adequately instrumented and measured to characterize the behavior of the spill and its surrounding environment in sufficient detail to provide all the data required to compare actual spill behavior with trajectory model forecasts."

Secondary objectives laid out in the operations plan were as follows:

to observe the behavior of various types of oil over time, paying particular attention to spreading, lens ("pancake") formation, sinking, evaporation retardation, and tar-ball formation;

to measure the chemical degradation of the oil over time;

to define the processes involving oil in the surf zone;

to document the appearance of the underside of oil pancakes by means of underwater photography.

Because of careful preparation by team members, the relatively easy accessibility of the Argo Merchant oil, and the strong logistics support provided by the Coast Guard, the team had by the end of the first full day of operations begun activities to accomplish all the planned objectives except the last; and that was accomplished shortly before Christmas. Looking at the scientific needs and at the capabilities being assembled in Hyannis, the team scientists decided to add two additional objectives to the list:

to measure the distribution of oil in the water column; and

to investigate the transfer of energy from waves to oil.

Biological and ecological research was also brought quickly into the operation, as scientists from WHOI, the University of Rhode Island, and the National Marine Fisheries Service undertook to determine the effects of the spill on plankton, fish, and sea birds in the area. The grounding occurred on Nantucket Shoals, one of the most heavily fished reefs in the region, and was sufficiently close to another—Georges Bank—to cause great concern by fishermen and scientists.

Fortunately, too, the Marine Mammal Commission met in Boston during the spill, and asked the team to provide a briefing. Elaine Chan did the briefing, mentioned that the team wanted a marine mammal observer, and invited the commission to send a representative. Shortly thereafter, Ben Baxter of the College of the Atlantic and his assistant, Barbara Morson, arrived to join the team for this purpose.

Accomplishment of the primary scientific objective—mapping the spill—was a coordinated effort involving visual sightings plus infrared and conventional photography. The principal source of the daily slick maps was Joseph Deaver of the USCG oceanographic unit. Videotapes and photos of the spill taken by Coast Guard and news representatives were also made available to the SOR team.

"Because of all this, mapping of the Argo Merchant spill was more extensive than that of any previous spill," said Grose.

Tracking the slick had not only a scientific purpose, but also a serious immediate use. Argo Merchant held together for more than a week, releasing oil at varying rates, until a heavy storm moved in. On Dec. 21 the ship broke in two and a huge amount of oil was discharged from the ruptured tanks. On Dec. 22 she broke again, triggering another massive release of oil.

At 4 p.m. on Christmas day Cdr. Charles Morgan, an oceanographer assigned to the Coast Guard's on-scene coordinator, called the team—whose numbers had dropped to five that day—to say that grave problems existed. He asked them to come over and look at the projected oil movements, which were based on then-existing currents and winds forecast by NWS. Team members hastened over and examined the projections, which showed that the spill could approach within two miles of Nantucket's beaches by Sunday afternoon, the day after Christmas. They compared the previous forecasts with the most recent map then being drawn by Deaver; the results were dishearteningly close.

What was needed was a large supply of drift cards, to be put in the water ahead of the leading edge of the slick, and notices to the public to be on the lookout for these cards. If the cards began to wash up anywhere on shore, the SOR team and the Coast Guard would know that the slick was close behind, and cleanup crews could be in place.

But the team had used up its supply of drift cards. So a telephone call was placed to Craig Hooper, back in Boulder spending Christmas with his family, telling him of the problem and asking that 20,000 cards—all that were available in Boulder—be shipped to the team right away.

Hooper worked all evening to locate a commercial flight that could get the drift cards to Boston; the Coast Guard had pledged that it would meet any commercial flight, and get the drift cards into the water. Finally, he called to say that Continental Air Lines had just cancelled its 4 a.m. flight from Denver, the last hope, because of the weather. At his request Mattson and Lt. Cdr. Roger Cawley, who was responsible for coordinating beach cleanup, conferred. They decided that the cards were indeed badly needed; word was passed back to Hooper.

The night stretched on like a bad dream, with appalling weather and events appearing to conspire to frustrate the shipment while threatening the coast. At one point Hooper had to have a telephone call to Hyannis routed through London, as all domestic lines were hopelessly tied up.

He then left his family dinner, collected assistance from some of the Boulder staff of MESA (Marine Ecosystems Analysis group), drove to the county airport, and loaded a jet—chartered a short time before—with the cards.

At 5:30 a.m. the jet appeared over Otis, asking for permission to land. Once on the ground, the MESA people who had come along pitched in and helped unload the cargo. By 9 a.m. an HU-16 Albatross seaplane took off with the cards, which were deployed successfully between the then-menacing oil slick and the land.

The end of the story was anticlimactic but very welcome—the easterly winds never appeared, the slick moved away from the shore, and the problem was resolved for the moment.

On the evening of Dec. 28, a group of SOR team members and Coast Guard officers who had dropped in—Capt. Hein, Cdr. Morgan, Lt. Cdr. Cawley—sat in the operations room relaxing, watching television, and talking about the situation. Among the ideas that came up was using Coast Guard marker buoys to track the oil, which the team would sometimes "lose" when bad weather forced cancellation of overflights.

Grose then suggested that what was really needed was satellite tracking through use of one of NOAA's small data buoys, a drifting buoy that he had helped develop while with the NOAA Data Buoy Office in Bay St. Louis, Miss. "Silence greeted his suggestion," recalled Mattson, "while we all sat there with the same reaction—'why didn't we think of that before'!"

So Grose called James Winchester, head of NDBO, at home. Winchester immediately set to work on the problem, and shortly found one of the buoys at Nova University in Florida, awaiting deployment. The University agreed to lend it to the project, and had it flown up.

On Dec. 31 the buoy was slung from a Coast Guard helicopter, which set out for the slick. Grose and Marilyn Pizzello, an SOR team member from PMEL, went out to deploy the buoy in the middle of "Pancake One", a huge oil lens, about 750 feet long and 450 feet wide, that had been spotted on Christmas day and tracked thereafter by visual sightings.

"The sun had set by the time we arrived at the area, so the Coast Guard used hover lights to locate the pancake," said Grose. "The helo hovered over the pancake at about 60 feet altitude, while we tried to release the buoy from the sling. Finally they cut the whole safety release mechanism away and the buoy dropped into place in the pancake. We arrived at Nantucket with only 30 minutes of fuel remaining, refueled, and got back to Hyannis at 9 p.m.—an unforgettable New Year's eve."

The buoy is a spar 10 feet long, with a flotation collar. Twice a day it sent a signal to NASA's Nimbus E satellite, from which NASA calculated the buoy's position and passed it along to the SOR team. This permitted them to track a part of the slick in all weather, and long after it was out of helicopter range.

Work in conjunction with the oil slick mapping was also of great value to the scientists working toward certain of the secondary objectives, including observing the behavior and characteristics of the oil pancakes and learning more about the underside of these huge masses of oil. Experience gained in an earlier spill in the Florida Keys showed that such pancakes can be up to six inches in thickness, and contain substantial amounts of oil. "Pancake One", for example, was estimated to contain about a half million gallons of oil, which in the cold water had roughly the consistency of cup grease or peanut butter.

On her second cruise, for example, Delaware II first covered, as control, an area of Georges Bank north of the spill and unaffected by it, then worked eastward, then down across an area that had been affected by the spill, and finally westward.

Nearshore studies began as early as Dec. 27, when MESA personnel assembled a team of biologists and chemists on Nantucket Island to develop a sampling plan for exposed beaches and inlets that would be vulnerable should the oil come ashore. The scientists—from WHOI, the Marine Biological Laboratory at Woods Hole, the University of Massachusetts, Northeastern University, and the Energy Resources Co.—obtained samples at four localities around the island. In addition, the U.S. Geological Survey obtained numerous intertidal samples which, like those collected by the MESA team, are in the custody of WHOI.

It was apparent to NOAA, two weeks after Argo Merchant went aground, that the SOR team had been highly successful in designing and organizing the research and modeling effort and enlisting the cooperation of

organizations and individuals up and down the coast. It had also become apparent that in addition to the quick-response activities, a long-term assessment effort was going to be needed, because of NOAA's responsibilities under the Marine Protection, Research and Sanctuaries Act of 1972 (the "Ocean Dumping" Act). Dr. Robert M. White, NOAA Administrator, promptly directed that ERL, through its MESA program, lead and coordinate the NOAA effort at both short-term and long-term assessment of the impact of the spill on the ocean environment.

In his Dec. 29 memorandum, Dr. White provided for the initiation of a program of research on the long-term effects of the Argo Merchant oil on the ocean ecosystem, with particular reference to the fish stocks of the Georges Bank area. He also asked for an interim report. The SOR team immediately turned to, working over the following weekend and through New Year's Day, and by Monday, Jan. 3, had produced a detailed account of the cooperative research activities thus far undertaken.

Also on Jan. 3 and Jan. 4 a major meeting was held at Falmouth, with participation by 50 people from Federal and State agencies, universities, and research institutions, to analyze the results as then known of the scientific work, and to lay plans for a follow-up cruise in late January that might determine how much the Argo Merchant spill had contaminated the ocean bottom.

The comprehensive nature of scientific coverage of the Argo Merchant spill and the degree of detail that the SOR team was able to achieve is producing results that promise to be of great help in modeling future oil spills. The team found, for example, that it is not sufficient to use existing current tables combined with statistical models of winds as a basis for prediction of oil movement—winds and currents in the nearshore environment interact too closely for this to be adequate.

The following day was Christmas. The half dozen SOR team members in Hyannis—Chan, Deaver, Lease, Mattson, Lou Butler of MESA/Boulder, and Alan Kegler of the State of Alaska Department of Environmental Conservation—took a little time in the morning to exchange Christmas gifts, around a small tree that they had put up in the operations room. A Coast Guard helicopter meanwhile retrieved the samples from the Vigilant. Then the team went back to work.

One of the important scientific objectives toward which the SOR team worked was to obtain a better understanding of the differing velocities of water and oil. While the oil moves with the water, it is given an extra push by wave action, and consequently moves more rapidly than the water. How much more rapidly depends upon a number of factors, including the size and speed of the waves. The team devoted several experiments to examining this problem.

One such experiment was undertaken by Galt and Mattson on Dec. 19. From a helicopter they released three dye markers in a line downwind and ahead of an oil pancake. This patch of oil was at the head of the 36-nautical-mile-long, horseshoe-shaped oil slick emanating from Argo Merchant. They used time-lapse photography to photograph the rate at which the oil mass advanced on the three dye markers.

The sequence of five photographs shows, for example, that at the beginning of the photography the oil was 42 feet from the nearest dye marker (which drifts with and at the same speed as the surface current). Slightly more than 3½ minutes later the slick had advanced to within three feet of the dye marker. Using information from the photographs together with other data such as observations of wind speed and wave height from the nearby Vigilant, the team calculated differential water-oil velocity, surface current velocity, and other data needed for better modeling.

Major activities were also undertaken to find out what impact the oil spill would have on the biological populations of the area, both near the shore and in the waters and on the bottom at greater depths. In addition to biological work during the first cruise of WHOI's Oceanus II, biologists participated in two cruises of the NOAA research vessel Delaware II, a second cruise of Oceanus II, and a cruise of URI's Endeavor.

The first cruise of Delaware II took place Dec. 22–24, during which 11 stations were occupied, and the second Jan. 4–11, with 39 stations. Among the samples taken were surface plankton, skimmed off by use of Neuston nets; eggs and larvae in the top 50 meters of water, collected in Bongo nets; and bottom samples taken by Otter trawl. Fish samples were taken for hydrocarbon analysis, stomach analyses, and benthic (bottom) biological data. Biologists subsequently examined the eggs in laboratory analyses to get some clues as to the degree to which the oil spill might have adversely affected their development.

"It is difficult to sample near oil without contaminating the samples," said George Kelly, fisheries biologist at the NMFS Woods Hole laboratory." During the cruises, we stayed well out of the oil slick initially, to collect useful baseline information, then went closer in."

Two days before Christmas a Navy diving team that had flown up from Norfolk, Va., was transferred to the USCGC Vigilant by helicopter, and members of the team dove into the chilly (41–43° F) water. They found the bottom, at 140 feet, to be clean white sand with no traces of oil but covered with clams, and they photographed a portion of it. They also took motion pictures and still photographs of the bottom of an oil pancake, which they found to be flat. The pancake was about an inch and a half to two inches thick; air bubbles from the divers would break through it, but it would then quickly coalesce.

Measurements of other pancakes from Coast Guard vessels, and during the New Year's eve buoy deployment, indicated that the pancakes were increasing in thickness as they drifted away from the ship, up to thicknesses of eight to twelve inches.

As a result of their dive through the oil, the divers lost three wet suits and most of their rubber gear, being unable to clean off the thick petroleum. They did succeed in cleaning their regulators and tanks. When they were brought aboard the Virginia after the dive, with face masks caked with oil, they were led around the ship, and there was considerable concern about how to clean the oil off them. But one of the Coast Guardsmen brought up a container of shaving cream, which worked very well.

Two private contractors for the Bureau of Land Management's study of the New England Outer Continental Shelf also contacted the SOR team and helped with oil slick mapping. Aero-Marine Surveys, Inc., of New London, Conn., and EG&G of Waltham, Mass., sent personnel to Hyannis a few days after the tanker went aground. Aero-Marine Surveys brought in a twin-engine marine survey airplane, and used it to augment other slick mapping by making visual observations, dropping drift cards, and making surface water temperature measurements.

Measuring the distribution of oil in the water column, an objective added to the scientific work as the team began its operations, was carried on beginning with the first cruise of WHOI's ship Oceanus II. Numerous other cruises also undertook this work. In addition, Coast Guardsmen volunteered to take samples from their cutters from time to time, monitoring the slicks when no other ships were at sea.

"I took sterile bag samplers out to the Vigilant the day before Christmas," said Chan, "because that was the only ship on station then, and we wanted samples at that time. After the samplers were put aboard from the helicopter that flew me to the cutter, I was lowered in a personnel transfer basket. I had to go aboard to show them how to use the samplers. When I arrived on deck and took off my parka, the men on deck saw that I was a girl and gave a great cheer!"

Moreover, when real-time forecasting of oil slick movement is undertaken, the team found it highly necessary that there be both accurate maps of the existing slick and efficient transfer of data between models and observers.

Other essential contributions to better oil spill modeling include accurate measurements of oil-water differential velocities, observations that pancakes build up in thickness rather than disintegrate, and the results of the photography of the underside of an oil pancake.

Tracking and analysis of the movement and behavior of the oil pancakes also promise to be among the most useful results of the team's work. They tracked individual pancakes, originally up to two inches thick, that after a week or two of movement had become eight to twelve inches thick.

The team also found that these oil masses did not move as had previously been thought. A general rule of thumb—that they move at about three percent of wind speed—has been used in modeling and analysis. The SOR team found, however, that in this particular case the pancakes moved at only slightly more than one percent of wind speed, when the wind was 10 to 17 knots and oil thickness was more than one inch. In addition, the thinner oil sheens that cover much of the sea surface, probably "fed" by the thicker patches, also appear to be limited to the 1.1-1.2 percent "wind factor."

A NOAA C-130 aircraft from the Flight Operations Group in Miami went to Cape Cod for two overflights of the oil, on Jan. 12 and 14. Observers aboard the aircraft located numerous oil pancakes far out at sea, and sighted drift cards still accompanying them. They were also able to confirm that the data buoy was still floating in the vicinity of the oil slick, so the positions it had given twice a day continued to be useful for records of the oil's drift.

With respect to one of the concerns of some fishermen in the area—the amount of oil that may have sunk to the bottom—analyses as of the end of January showed no confirmed reports of oil, visible or otherwise, in any of the samples. This is consistent with the observations made by the Navy scuba divers, who one week after the grounding reported no visible oil on the bottom. Because the currents in their dive area are primarily tidal, oil had passed over the spot checked by the divers twice a day for the seven days.

A separate but related problem is under analysis by scientists of the National Marine Fisheries Service and of research institutions in the area. The fisheries biologists want to know the extent to which the floating oil may have affected eggs and larvae in the water, possibly posing a threat to future fish stocks. It is known that the oil will adversely affect the eggs and larvae that comes in direct contact with it, but NMFS scientists are trying to determine if this actually happened to an extent great enough to affect commercial fishing in the area.

Of the bird populations, participants from the Manomet Bird Observatory found that herring and black-backed gulls, both common in the area, were the hardest hit by the spill. Badly oiled gulls landed on the Vigilant, and some accepted food by hand. Many birds in flight were seen to have oil patches on their underparts, and occasional dead birds were seen. Kittiwakes appeared to be less

affected than gulls, and most gannets were clean. Fulmars, murres, and ducks were also affected, but bird observers reported that there appeared to be no massive effects on any of the species.

There was little early indication that marine mammals had been greatly affected. About six to eight finback whales, and two white-sided dolphins, were spotted by observers, and none indicated any adverse response to the oil.

"The real problem," said Ben Baxter of the College of the Atlantic, "is that if there were any animals in the oil that were affected, we probab'y will never know about it. If their bodies wash up on a beach and are reported, we may get a clue, but this is unlikely."

By January 9, 1977, the SOR team had essentially completed its on-site work, and members scattered to Boulder, Washington, Seattle, Fairbanks, and the many other localities whence they had come. A small monitoring team stayed on for another week, serving as transition for the MESA assessment effort that began to move in. The critically important 25 days that the SOR team worked on site thus became Phase 1 of the overall NOAA response to the Argo Merchant grounding, and MESA began Phase 2.

John Robinson of MESA established headquarters in Falmouth, and a group numbering about five, augmented by people from a variety of other organizations, began planning the next phase of NOAA's response. Early in January, it was agreed among representatives of the Coast Guard, EPA, BLM, and NOAA that NOAA would coordinate scientific work undertaken in Phase 2. Robinson is thus both the NOAA coordinator and head of the interagency coordinating team, which includes Dr. Paul Lefcourt of EPA, Robert Beauchamp of BLM, and Capt. Frederick Schubert of the Coast Guard.

Following up on Dr. White's directive, Robinson's group is carrying out the long term assessment, a task expected to last about 18 months. Work also continues within Phase 2 by NMFS scientists, investigating fin fish, shellfish, and ichthyoplankton, and by Woods Hole Oceanographic Institution scientists working on biological sample analysis. The long-term effects of the grounding of that tanker, however severe they may be, will be better known than has been possible for any previous spill.

QUICK-RESPONSE RESEARCH: PLANNING PAID OFF

Early in November, in Santa Barbara, California, a new "real time" scientific research operation was born: rapid-response study of oil spills. A group of NOAA and Coast Guard oceanographers from opposite coasts of the United States came together to begin training sessions, developing and practicing the techniques for such an operation.

Before they met, there were no experts in such work. Only two of the group had been involved in oil spill studies. Dr. James Mattson remarked (to a company representative demonstrating a tool that they might use): "We're not just training, we're starting from scratch. We're training each other."

The Spilled Oil Research (SOR) teams grew out of NOAA's Outer Continental Shelf Environmental Assessment program, which is managed by the Environmental Research Laboratories for the Bureau of Land Management. One of the goals of that program is to develop mathematical models of oil spill behavior, to help assess the impact of oil leasing in the Gulf of Alaska. The NOAA/Coast Guard SOR teams, coordinated by Craig Hooper of ERL, will provide information obtained from actual spills that is necessary to develop viable models for forecasting the behavior of future spills.

Oil spill teams have been set up in four cities—Seattle, Juneau, Fairbanks, and Washington, D.C. Each team consists of three to six people from NOAA, the Coast Guard, State of Alaska, or University of Alaska. They must be ready to mobilize on a few hours' notice, rush to the scene of a spill, obtain a small aircraft and a boat, and begin their investigation.

The main purpose of the SOR teams is to measure the physical movement of various types of oil at sea under diverse oceanographic and meteorological conditions. They also hope to be able to observe how the oil behaves, and what chemical transformations it undergoes. Does it spread, sink, evaporate, or form tar balls? Other secondary goals are to define the processes that occur when oil enters the surf zone, and to measure the oil content of bottom sediments.

Each team is equipped with a kit containing equipment for making repeated measurements of currents, winds, waves, and the extent and path of the oil for at least 24 hours. An aluminum suitcase contains cameras, film, stopwatch, walkie-talkie, dictaphone, inflatable markers (and a compressed gas cartridge for inflating them), sextant, binoculars, and wind gauges. A trunk carries such tools as current probes, anemometers, thermometers, another camera, bags for collecting water and oil samples. Everything is ready for a call from the Coast Guard.

According to the plan that existed at the time of the Argo Merchant spill, whenever an oil spill of more than 1,000 barrels occurs the Coast Guard's National Response Center in Washington, D.C. would call Hooper or an alternate. The first individual contacted then calls whoever is in charge at the scene—usually the Federal On-Scene Coordinator—to learn more details about the size, accessibility, environmental conditions, and geography of the spill. The next calls are to Mattson, Elaine Chan, or Dr. Peter Grose, scientists with the Environmental Data Service in Washington; Gary Hufford, a Coast Guard officer and member of the Washington spill research team; and Dr. Jerry Galt of NOAA's Pacific Marine Environmental Laboratory, to discuss whether that particular spill is worth investigating.

The answer to that question hinges on the answers to a list of others: Is the spill large enough to be tracked for at least 24 hours after the team arrives? Is it a commonly transported type of oil or an odd case? Do the winds, waves, and currents of the area present an opportunity to fill a data gap? How easily and quickly can the site be reached? How difficult will it be to obtain the necessary platforms to conduct a study? Can the nearest team provide at least two members? Finally, is the spill or its environment unique in any way? Is a highly sensitive biological community threatened? Will oil enter a surf or ice zone where there are no data? Is there a large amount of suspended matter in the waters or an upwelling, which would be important to study?

If the decision is to go, the researchers will be on the way within a few hours. What they do when they arrive on the scene was carefully worked out in Santa Barbara.

There, the teams from Juneau, Fairbanks, Seattle, and Washington met with the Boulder headquarters crew to practice on the natural oil seeps in the Santa Barbara Channel. From a 25-foot cabin cruiser, some of the team members measured winds and temperature. Meanwhile, others circled above in a Cessna 182 to drop current and wind probes. The current probe, a two-foot tube of white plastic, sinks into the water, anchors itself to the bottom, and releases two colored plastic "rockets" at timed intervals. The rockets rise to the surface and release patches of green dye. By measuring the distance between the patches, the researchers on the boat can infer the distance that the first patch has traveled in the time between the releases, and, therefore, the speed of the currents.

The airborne and surface members of the teams keep in constant touch by walkie-talkie, and each observation and activity is recorded on a dictaphone. Photographs from the plane (a Cessna 182 was selected because its door can be removed for unobstructed views downward) reveal the area covered by the oil and record the positions of dye patches.

Such seemingly trivial problems as what kind of pattern the plane should fly had to be ironed out. An oval, or "racetrack" pattern was tried first. Then they settled on a figure-eight, making drops at the crossing of the "8," sweeping into a quick turn to come back and take photographs. The airborne members got to be good bombardiers, dropping current probes within 100 yards of the boat. Such accuracy was more than a nicety, for the observers on the boat must speed to the spot where a probe hits the water in order to time the appearance of the dye markers. It also helps to aim for the "downsun" side of the boat, so that the surface observers will not be looking into the sun.

Bright orange plastic drift cards dropped in the water track oil and current movements over longer distances. The cards carry messages printed in English, Spanish, and French, requesting the finder to notify NOAA of the location and time where they were found. These are dropped in batches of 25.

The teams worked long hours, testing over and over until a "run"—a complete run-through of all necessary measurements—could be performed in an hour, and each member felt comfortable with the tools. At evening debriefing sessions they discussed problems encountered during the day, and suggested new approaches to try the next day.

What the oil spill researchers learned in Santa Barbara has since been put to rigorous test. Team members have gotten their feet oily on two major spills. Their techniques will doubtless continue to evolve. But one thing has changed already. Now the new type of research operation has experts.

ON CAPE COD, DOUBLE TROUBLE

Scarcely had NOAA staffers started writing their report on Phase 1 of the Argo Merchant oil spill when another hit Cape Cod waters. This time it was highly toxic No. 2 heating oil, flowing into the ice-choked estuary of Buzzards Bay and threatening thousands of dollars worth of nearby shellfish beds as well as large concentrations of diving ducks and Canada geese.

Because of NOAA's research interests in the behavior of oil in ice and its effects on fisheries resources, and because of the early estimate that more than 100,000 gallons of oil were spilled, personal plans were again shelved and NOAA scientists and back-up staff gathered in Falmouth to see how they might help.

The oil came from Bouchard No. 65, a tug-towed barge carrying its vital carge to a fuel-short New England that was shivering through the worst winter in many years. The tug Frederick E. Bouchard had struggled for two days to cross Buzzards Bay, en route from Providence, R.I. to Portland, Me., by way of the Cape Cod canal. The tug was breaking a channel through the pack ice when the barge drifted onto a ledge at about 8:15 p.m. Friday, Jan. 28.

In a struggle to reduce the amount of oil spilled in the bay, the Coast Guard freed the barge from its mid-bay location and intentionally beached it 100 yards off frozen, windswept Wing's Neck, where another barge could be brought up and the oil taken off. Saturday morning brought relief when the barge Bouchard No. 85 was towed alongside and much of the cargo transferred.

Nearby Falmouth was the headquarters of the Marine Ecosystems Analysis (MESA) group charged with Phase 2—long-term assessment—of the Argo Merchant spill. The weekend barge accident found many of the group out of town, but on-scene consultants Ben Baxter and Barbara Morson made imme-

diate plans for an overflight, while awaiting word as to NOAA's possible involvement.

On Saturday morning they made their first overflight, with the help and cooperation of Dr. George Woodwell of the Marine Biological Laboratory in Woods Hole. On Sunday evening ERL's John Robinson returned to coordinate the MESA effort on the new spill.

Because this spill took place within the waters of the state of Massachusetts, state and local officials were closely involved in the research as well as having responsibility for management of the area. George Kelly of NMFS' Northeast Fisheries Center at Woods Hole contacted state fisheries biologist Arnold Carr for other assistance, while from the town of Bourne came Department of Natural Resources officers under the direction of Burke Limeburner, who hastened to collect shellfish samples before the beds could be fouled. Over the weekend Limeburner closed all shellfish beds as a precautionary measure, noting that "we may not know until spring if these beds are wiped out."

"The yellow (oil-stained) ice is bad enough at Wing's Neck," he continued, "but what concerns me is what is happening under the ice."

It was this concern that meshed the state and local effort with the MESA research activities. Robinson's group called in oil spill and ice pack experts from around the country to help. Dr. Seelye Martin and Peter Kauffman from the University of Washington sped to Cape Cod to lend their ice-pack research expertise to the problem, as did Paul Deslauriers of Arctec, Inc., a Columbia, Md., contractor with NOAA's Outer Continental Shelf Assessment Program (OCSEAP).

Meanwhile the transfer of oil to Bouchard No. 85 was completed Saturday night in temperatures approaching zero, and icebreaking tugs took the two barges into Boston on Sunday morning, 24 hours after the Corps of Engineers closed the Cape Cod canal to all other traffic.

Dr. James Mattson and Elaine Chan of EDS joined the MESA people in Falmouth to lend their Argo Merchant quick-response experience to the effort. Garry Mayer, Kevin O'Donnell and Katie Baker of MESA, and George Heimerdinger—EDS laision at Woods Hole—were among the others of scene.

What quickly became a cooperative interagency effort also saw Dr. Paul Lefcourt, Carl Eidam, and Peter Nolan of the Environmental Protection Agency, and Beth Hubbard of the Massachusetts Division of Marine Fisheries, working in cooperation with NOAA scientists.

Wednesday morning, Feb. 3, found some of the scientists fanning out on the ice to sample ice and water, while others set about locating supplies that would be needed for the cold and difficult work at hand. The Northeast Fisheries Center made equipment available, and the Coast Guard provided protective wet suits to enable the scientists to withstand the chilling winds on the ice. The U.S. Army's Cold Regions Research and Engineeriing Laboratory at Hanover, N.H., quickly lent ice corers and a portable viscometer.

The team located and purchased a chain saw with non-oil-lubricating cutting chain, so that ice could be cut for sampling without having lubricating oil foul the samples. A large heated van was rented and positioned on a spit of land near operations on the ice, to serve as field communications center and emergency aid station.

The first samples taken on the ice by Dr. Howard Sanders of the Woods Hole Oceanographic Institution were quickly analyzed with the help of WHOI's Dr. John Farrington, and the results made available to NOAA. From that sample analysis, the NOAA team and Burke Limeburner jointly planned succeeding sampling operations designed to provide the state and local officials with resource assessment information, and provide the NOAA team with research information.

The Coast Guard meanwhile continued its efforts to contain the oil, and remove it from the icy waters. Later estimates placed the amount spilled at about 80,000 gallons.

A week after the first oil-ice research began, the weather warmed and the ice started to melt. The research team completed much of its work, and the operation was throttled down. A report on the activities of the group was made to the selectmen of the town of Bourne on Feb. 9, and NOAA staffers from out of town dispersed to their many locations around the country. The permanent scientific staffs of the Marine Biological Laboratory and the Northeast Fisheries Center would continue their resource assessment work in conjunction with state and local officials.

Oilspills would never be commonplace, but valuable lessons were being learned about how NOAA could best react to them.

Mr. HOLLINGS. Mr. President, unfortunately, the research efforts of NOAA have been cut off in midstream by an overly constricting CMB decision. If we knew more about oil spill effects we could perhaps devise more cost effective oil spill programs, but this information is denied to us. This is short-sighted. With so many nebulous research programs throughout this Government, it seems ridiculous that a comprehensive ocean pollution research program is not instituted, especially since public resources are threatened.

I hope my colleagues will examine S. 1617 and support its enactment.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1617

An Act to establish a program of ocean pollution research and monitoring, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Pollution Research Program Act".

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Man's activities in the ocean and the coastal zone can have profound short-term and long-term impacts on the marine environment.

(2) There is need to establish a comprehensive Federal program of ocean pollution research and monitoring, particularly in regard to the inputs, fates, and effects of pollutants, including petroleum, in the marine environment.

(3) Numerous agencies, departments, and instrumentalities of the Federal Government sponsor, support, or fund activities relating to ocean pollution research and monitoring. However, such programs are often uncoordinated and can result in unnecessary duplication.

(4) Better planning and more effective and efficient use of available funds, facilities, vessels, and personnel is the key to an effective Federal program of ocean pollution research and monitoring.

(b) PURPOSES.—It is therefore the purpose of the Congress in this Act—

(1) to establish a comprehensive Federal program of ocean pollution research and monitoring;

(2) to designate the National Oceanic and Atmospheric Administration as the lead Federal agency for ocean pollution research and monitoring; and

(3) to provide for the assistance of the Director of the Office of Science and Technology Policy, through the Federal Coordinating Council for Science, Engineering, and Technology, in coordinating, on a continuing basis, the Federal program of ocean pollution research and monitoring.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires:

(1) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) The term "Council" means the Federal Coordinating Council for Science, Engineering, and Technology.

(3) The term "Director" means the Director of the Office of Science and Technology Policy in the Executive Office of the President.

(4) The term "marine environment" means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States.

(5) The term "ocean pollution" means any short- or long-term change in the marine environment.

(6) The term "research plan" means the Federal plan to be prepared pursuant to section 204.

SEC. 4. FEDERAL PROGRAM AND PLAN.

(a) LEAD AGENCY FOR PLAN.—The Administrator with the assistance of the Director and the Council, shall prepare a comprehensive, three-year research plan for ocean pollution research and monitoring which shall be submitted to the Congress and the President within one year after the date of the enactment of this Act and every third year thereafter, in accordance with section 5.

(b) CONTENT OF PLANS.—Each research plan shall contain, but need not be liimted to—

(1) a detailed listing of all Federal programs relating to ocean pollution research and monitoring, including general research on ocean ecosystems and research into the inputs, fates, and effects of pollutants, including petroleum, in the marine environment;

(2) a listing and explanation of the research priorities identified by the Administrator in accordance with subsection (d);

(3) a description of actions taken by the Administrator and the Director to coordinate the budget review process to insure interagency cooperation and to eliminate unnecessary duplication; and

(4) the goals and estimated cost of each such Federal program.

(c) INTERAGENCY COORDINATION AND COOPERATION.—The head of each agency, department, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, programs relating to ocean pollution research and monitoring—

(1) may, upon a written request from the Director or the Administrator, make available to the Director or the Administrator, on a reimbursable basis or otherwise, such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Director or the Administrator to achieve the purposes of this Act; and

(2) shall, upon a written request, furnish such data or other information as the Di-

rector or the Administrator deems necessary to fulfill the purposes of this Act.

(d) PRIORITIES.—The Administrator shall identify priorities for the Federal program of ocean pollution research and monitoring prior to preparation of the research plan, after consultation with the Director, other Federal agencies, departments, or other instrumentalities, the National Academies of Sciences and Engineering, the academic community, industry, State and local governments, and other interested parties.

(e) PLAN REVISIONS.—The Administrator, with the assistance of the Director, shall prepare and submit to Congress and the President, as part of the annual report required by section 6, a detailed explanation of any revisions of the research plan during the period of such plan.

SEC. 5. AUTHORITY OF THE ADMINISTRATOR.

(a) RESEARCH AND DEVELOPMENT ASSISTANCE.—The Administrator shall identify specific national needs and problems in fields related to ocean pollution research and monitoring. The Administrator may provide financial assistance in the form of grants or contracts with respect to such needs and problems, if such needs and problems are not being addressed by any other Federal agency.

(b) APPLICATION FOR ASSISTANCE.—Any person (including a governmental entity) may apply for financial assistance under this section for the conduct of research and monitoring projects, and, in addition, specific proposals may be invited. Each grant or contract under this subsection shall be made pursuant to such rules as the Administrator shall perscribe. Each application for financial assistance shall be made in writing in such form and with such content and other submissions as the Administrator may require. The Administrator is authorized to enter into contracts under this subsection without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

(c) EXISTING PROGRAMS.—The activities supported by grants or contracts made or entered into under this section shall, to the maximum extent practicable, be administered through existing Administration programs including the national sea grant program. The total amount paid pursuant to any such grant or contract may, in the discretion of the Administrator, be up to 100 percent of the total cost of the program, project, or activity involved.

(d) ACTION BY ADMINISTRATOR.—The Administrator shall act upon each application for a grant or contract received by him under his section within 6 months after the date on which all required information is received.

(e) RECORDS.—Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for three years after the completion of such a project or undertaking. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Administrator or of the Comptroller General, may be related or pertinent to such financial assistance.

SEC. 6. ANNUAL REPORT.

The Administrator, with the assistance of the Director, shall submit to the Congress and the President, not later than February 15 of each year, a report on the status of ocean pollution research and monitoring. Each such report shall include—

(1) the research plan, and any revision thereof, prepared under section 4;

(2) an evaluation of the Federal Government's research capabilities, including the status of personnel, vessels, facilities and equipment; and

(3) a summary of the efforts undertaken and planned to coordinate the Federal program of ocean pollution and monitoring.

SEC. 7. DISCLAIMER.

Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal agency or department, under any law, to undertake research related to ocean pollution.

SEC. 8. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for the purposes of carrying out his responsibilities under this Act, not to exceed $5,000,000 for the fiscal year ending September 30, 1978, and not to exceed $6,000,000 for the fiscal year ending September 30, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are four measures on the calendar which have been cleared for passage by unanimous consent. They are Calendar Nos. 348, 349, 352, and 353. I ask that the clerk transfer those four measures to the Unanimous Consent Calendar.

The PRESIDING OFFICER. The measures will be so transferred.

BENJAMIN WHITCOMB INDEPENDENT CORPS OF RANGERS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. LEAHY, I send to the desk a resolution extending best wishes of the Senate to the Benjamin Whitcomb Independent Corps of Rangers. I understand that it has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 241) extending best wishes of the Senate to Benjamin Whitcomb Independent Corps of Rangers.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with, the title being clearly expressive of the content of the resolution. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 241

Whereas on October 15, 1776, the Continental Congress commissioned two independent companies of men to be commanded by Captain George Aldrich; and

Whereas the men who formed such companies were from the areas which are now the States of Vermont and New Hampshire; and

Whereas the Benjamin Whitcomb Independent Corps of Rangers is a nonprofit educational corporation incorporated under the laws of the State of Vermont and was formed to carry on and commemorate the name of the original independent company of men who fought for this Nation's independence; and

Whereas a company of men under the command of Captain Benjamin Whitcomb participated in the battle of Bennington, Vermont on August 16, 1777; and

Whereas the Benjamin Whitcomb Independent Corps of Rangers will re-enact the famous battle of Bennington on August 13 and 14, 1977, in celebration of the 200th anniversary of such battle: Now, therefore, be it

Resolved, That the Senate hereby extends to the Benjamin Whitcomb Independent Corps of Rangers its best wishes on the occasion of the re-enactment, on August 16, 1777 of the Revolutionary War battle of Bennington, Vermont, and commends the Benjamin Whitcomb Independent Corps of Rangers for its continuing educational efforts in connection with the Revolutionary War.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver at the desk which pertains to the water pollution bill. I ask unanimous consent—I understand this has been cleared all around—that Senate Resolution 233, the budget waiver resolution, be called up and the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, do I understand this is the budget waiver on the water pollution bill?

Mr. ROBERT C. BYRD. The budget resolution waiver to S. 1952, the Water Pollution Control Act Amendments of 1972.

Mr. BAKER. It is cleared on this side and there is no objection to its consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1952, a bill amending the Federal Water Pollution Control Act.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

S. RES. 233

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1952. Such waiver is necessary to allow for the authorization of funds for the Federal water pollution control program and municipal treatment construction grant programs.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 16, 1977, because of the large number of other matters considered and reported by the Committee on Environment and Public Works. Other matters considered and reported to the Senate included S. 1529, the Water Resources Development Act of 1977, and S. 252, the Clean Air Act amend-

ments. Further, the issue of water pollution was addressed in the conference on H.R. 11, the Public Works Employment Act, but no satisfactory resolution of the issues could be worked out. Water pollution issues were not included in the conference report.

The authorizations contained in S. 1952 are consistent with the Environment and Public Works Committee's March 15, 1977, report to the Committee on the Budget.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a resolution at the desk, Senate Resolution 228, a budget waiver resolution to S. 977, Calendar Order No. 336, the coal conversion bill.

I understand this resolution has been cleared all the way around, and I, therefore, ask unanimous consent that the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, I understand it is cleared with the members of the Budget Committee, and there is no objection on this side of the aisle.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 977.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

Resolved, That, pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 977. Such waiver is necessary because (1) section 211 of the bill provides that the Administrator of the Federal Energy Administration is authorized to make loans to any person who owns, leases, operates, or controls any existing electric powerplant or major fuel-burning installation which converts to coal or other fuel in lieu of natural gas or petroleum as a primary energy source beginning in fiscal year 1978 and extending through 1982; and (2) section 306(g) authorizes the Administrator of the Federal Energy Administration to expend sums for assistance to regions impacted by expanded coal production for eight years beginning in fiscal year 1978.

All of these provisions relate to that part of the national energy plan concerning the conversion of electric powerplants and major fuel-burning installations from natural gas and oil to coal and other fuels.

The committee action to report S. 977 was delayed because of the need to consider (1) other major bills which had not been within the committee's jurisdiction prior to adoption of S. Res. 4 and (2) the energy proposal submitted to Congress by the President to implement his national energy plan.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized during the recess over until tomorrow to receive messages from the President.

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

Mr. ROBERT C. BYRD. I assume that a time limitation had best be put upon that request, and I suggest that the hour of 10 p.m. would be a reasonable hour.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF LEGISLATIVE PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the water pollution bill, the Senate proceed to the consideration of the foreign aid appropriations bill, with the understanding that the clean air conference report can be called up at any time, and with the further understanding that a motion to proceed to reconsider the vote on the adjournment resolution may also be called up at any time, notwithstanding the fact that there are time agreements on both the water pollution bill and the foreign aid appropriations bill.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, this can be done without unanimous consent.

Mr. BAKER. Mr. President, reserving the right to object just for a moment, will the majority leader withhold that request for action on his unanimous-consent request for a moment; might it be possible to suggest the absence of a quorum?

Mr. ROBERT C. BYRD. Yes.

If the Senator will allow me, I should state that it is not necessary to get unanimous consent to do this.

The only reason I asked unanimous consent, and I shall withdraw the request, is I simply want to state for the record that it will be possible at any time during the consideration of the water pollution bill and the foreign aid appropriation bill to call up the conference report on the clean air amendments notwithstanding the fact that there are agreements on those two measures.

All that would be needed would be for the Senator who wishes to call up the Clean Air Act conference report to get one of the managers of the bill to yield a minute in which he could ask unanimous consent to bring up the conference report, and if there is an objection thereto he can move to proceed and that motion is not debatable.

On the adjournment resolution, it likewise is a highly privileged matter and unanimous consent is not needed.

I think I should state this for the record. The only reason I used the unanimous-consent request approach was really for the understanding of the Senate that these things would be done.

So I withdraw the unanimous-consent request.

Mr. BAKER. Mr. President, I thank the majority leader, and may I say that I agree with his assessment of the parliamentary situation and agree with his plan.

I feel that there is nothing more important now than proceeding to the consideration, and, one hopes, the disposition of the clean air conference report. I agree that the majority leader needs no unanimous-consent agreement in order to proceed to the consideration of the conference report, or indeed to proceed to the consideration without debate of reconsideration of the motion for adjournment.

So I thank the majority leader for withdrawing the unanimous-consent request, which I had not been able to clear on this side, and proceeding on the basis of his rights as he described them.

Mr. ROBERT C. BYRD. There is one portion of the unanimous-consent request, however, that I killed by withdrawing the request, and that is that the Senate proceed, upon the disposition of the water pollution bill, to the consideration of the foreign aid appropriation bill. I renew that request.

Mr. BAKER. Mr. President, there is no objection to that on this side.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 8:30 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. LEAHY will be recognized for not to exceed 15 minutes, after which Mr. JAVITS will be recognized for not to exceed 15 minutes, and after which the Senate will proceed to the consideration of the water pollution bill on which there is a time agreement.

Rollcall votes are expected in relation thereto, and upon the disposition of that measure, the Senate will proceed to the consideration of the foreign aid appropriation bill on which there is a time agreement. Rollcall votes are expected in relation to that bill.

At some point during the day, if the clean air conference report comes over from the other body, which is anticipated, the manager of that conference report, Mr. MUSKIE will call it up, and

there will be some debate thereon. Undoubtedly there will be a rollcall vote on the adoption of the conference report, and if the action, upon its adoption, has not been completed on either the water pollution bill and/or the foreign aid appropriation bill, the Senate will resume, at that point, the consideration of such measure or measures.

I dare not anticipate that the Senate will complete action on all three of these measures tomorrow. Tomorrow will be a long day, however, I think undoubtedly. We read in the Scriptures that there was a long day when Joshua asked the Sun to stand still. I do not anticipate that kind of a long day, but I would suggest that Senators not plan to have dinner at their homes tomorrow evening. Friday likewise, I would suggest at this point at least, would be a lengthy session, and a late one, and I would hope that the action on the three measures I have outlined will be completed by that time, so as to spare us from a Saturday session.

There may be other matters that will be cleared for action in the meantime, and hopefully the Senate can act on them.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and at 9:11 p.m. the Senate recessed until tomorrow, Thursday, August 4, 1977, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 3, 1977:

DEPARTMENT OF STATE

Benjamin H. Read, of the District of Columbia, to be Deputy Under Secretary of State.

Rodney O'Gliasain Kennedy-Minott, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

Andrew Ivy Killgore, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

William Bowdin Jones, of California, a Foreign Service office of class 1, to the Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

AMBASSADOR

Peter R. Rosenblatt, of New York, for the rank of Ambassador during the tenure of his service as personal representative of the President to conduct negotiations on the future political status of the Trust Territory of the Pacific Islands.

ENVIRONMENTAL PROTECTION AGENCY

William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

NUCLEAR REGULATORY COMMISSION

Joseph Mallam Hendrie, of New York, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1981.

Peter Amory Bradford, of Maine, to be a member of the Nuclear Regulatory Commission for a term expiring June 30, 1982.

NATIONAL MEDIATION BOARD

Robert Oberndoerfer Harris, of the District of Columbia, to be a member of the National Mediation Board for the term expiring July 1, 1980.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Patricia Albjerg Graham, of Massachusetts, to be Director of the National Institute of Education.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

DISTRICT OF COLUMBIA COURT OF APPEALS

John Maxwell Ferren, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years.

DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning Edward P. Djerejian, to be a Foreign Service officer of class 3, and ending Stephanie A. Smith, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 21, 1977.

HOUSE OF REPRESENTATIVES—*Wednesday, August 3, 1977*

The House met at 10 o'clock a.m.

Rev. McArthur Jollay, pastor, Christ Church of Washington, D.C., offered the following prayer:

Our Father, who art in heaven, we bless and honor Your name for sharing with us the privilege of helping shape the destiny of men and nations. May we move on in the confidence of Your guidance, for You have promised those who follow Thee You will never send them back, nor go on without them. (Hebrews 13: 5 (Gr.))

Let our faith, then, so respond today that this certainty may hold and guide us; that in very fact we may help fulfill the innate longing of all mankind, as voiced in the prayer of our Saviour who taught us to pray: "Thy kingdom come. Thy will be done on Earth, as it is in heaven. For Thine is the kingdom, and the power, and the glory, forever. Amen."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Secretary be directed to request the House of Representatives to return to the Senate the concurrent resolution (H. Con. Res. 317) entitled "Concurrent resolution providing for an adjournment of the House from August 5 until September 7, 1977, and an adjournment of the Senate from August 6 until September 7, 1977."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7589, MILITARY CONSTRUCTION APPROPRIATION ACT, 1978

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO SIT DURING 5-MINUTE RULE TODAY

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may sit today while the House is under the 5-minute rule to consider matters before the committee.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, it is my understanding that because of the recess the House Administration Committee has graciously scheduled hearings so that the Intelligence Committee can get into operation by September, so I certainly do not object and I hope no one would object. Therefore, I withdraw my reservation of objection.

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, that is the purpose of the request, and we hope to have the matter on the Intelligence Committee finished within the hour.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REQUEST TO CONSIDER S. 1765, FOR THE RELIEF OF THE FEDERAL LIFE & CASUALTY CO. OF BATTLE CREEK, MICH.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1765) for the relief of the Federal Life & Casualty Co. of Battle Creek, Mich.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, and I do not intend to object, as I understand it the Senate bill is identical to the House bills (H.R. 8001 and H.R. 8005), introduced by me and the gentleman from Michigan (Mr. TRAXLER), and that the subcommittee has acted upon those and